

THE EXPLOSIVE SUBSTANCES ACT, 1908

SUMMARY

The Explosive Substances Act, 1908 was enacted with the objective of regulating the manufacture, possession, use, sale, transport, import and export of explosives and other similar substances. The act provides for the establishment of licensing authorities and prescribes the conditions for obtaining and revoking licenses for the manufacture, possession, and sale of explosives. It also lays down the procedures for the seizure and disposal of explosives that are being illegally manufactured, possessed, or used. The act defines various offenses related to explosives and prescribes punishments for them, including imprisonment and fines. The act also provides for the appointment of explosives inspectors and their powers and duties.

Section 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 and applies also to citizens of India outside India.

Simplified

- (1) The name of this law is the Explosive Substances Act, and it was created in the year 1908.
- (2) This law is valid everywhere in India and also applies to Indian citizens who are in other countries.

Explanation using Example

Imagine a company based in Mumbai, India, that manufactures fireworks. Even though their products are sold and used within India, the company decides to expand its business and export fireworks to other countries. One of the company's employees, an Indian citizen, is sent to manage operations in a Southeast Asian country. Under the provisions of the Explosive Substances Act, 1908, specifically as per Section 1, the laws governing explosive substances not only apply to the company's activities within India but also to the actions of the Indian employee while they are abroad. This means that if the employee were to engage in any activity that contravenes the Act, such as illegally trading or mishandling explosives, they could be held accountable under Indian law, despite being outside the country.

Section 2: Definition

In this Act - 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;

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.

Simplified

This law defines certain terms as follows:

"Explosive substance" includes not just the materials used to make explosives, but also any equipment, machines, or materials that are used or meant to be used to create an explosion with those substances. This also covers any parts of such equipment or machines.

"Special category explosive substance" refers to specific, powerful explosives such as RDX, PETN, HMX, TNT, and others listed. It also includes remote control devices that can cause explosions, and any other substances that the government might officially add to this list in the future.

Explanation using Example

Imagine a situation where a local police department receives information about an individual who is buying large quantities of fertilizer and other chemicals that can be used to make explosives. Upon investigation, the police discover that the individual has no agricultural background or legitimate use for these materials. They also find diagrams and manuals on how to create bombs and modified electronics that could serve as detonators.

Under the Explosive Substances Act, 1908, the materials and apparatus possessed by the individual fall under the definition of "explosive substance" as they are intended to be used for causing an explosion. The police can take appropriate legal action against the individual for possession of materials for making explosive substances and for the apparatus intended to cause an explosion, as per the definitions provided in the Act.

Section 3: Punishment For Causing Explosion Likely To Endanger Life Or Property

Any person who unlawfully and maliciously causes by: 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; 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.

Simplified

If a person intentionally and with harmful intent causes an explosion with: any explosive material that could put lives at risk or cause major damage to property, they can be sentenced to life in prison or at least ten years of strict imprisonment, regardless of whether someone was actually hurt or property was damaged. They may also have to pay a fine.

a particularly dangerous explosive material that could put lives at risk or cause major damage to property, they can face the death penalty or life in prison with strict conditions, regardless of whether someone was actually hurt or property was damaged. They may also have to pay a fine.

Explanation using Example

Imagine a situation where an individual, John, is found to have planted a homemade bomb in a busy shopping mall. The bomb is discovered before it detonates and no one is injured. However, the bomb had the potential to cause a significant explosion that could have endangered lives and damaged property. Despite the fact that the bomb did not explode and no physical harm was

caused, under Section 3 of The Explosive Substances Act, 1908, John can still be charged.

Because John's actions involved an explosive substance and the potential for serious harm, he could face a minimum of ten years of rigorous imprisonment and a fine. If the explosive had been of a particularly dangerous category, known as a special category explosive substance, the law would allow for even harsher penalties, including the possibility of a death sentence or life imprisonment, along with a fine.

Section 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 - 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 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, - 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; 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.

Simplified

If a person intentionally and with ill-will:

Performs any act or plans with others to cause an explosion using explosive materials, which could put lives at risk or cause significant damage to property; or Creates or has explosive materials in their possession or control with the plan to use them to put lives at risk or cause significant damage to property, or to help someone else do the same in India, then, regardless of whether an explosion actually happens or if anyone is hurt or any property is damaged, the person will be punished:

For regular explosive materials, they could face life in prison or up to ten years in prison, and may also have to pay a fine;

For particularly dangerous explosive materials, they could face strict life imprisonment or up to ten years of strict imprisonment, and may also have to pay a fine.

Explanation using Example

Imagine a person named John who is found to have built a homemade bomb in his garage. John had no intention of using it himself, but he intended to give it to an acquaintance who he knew was planning to use the bomb to destroy a bridge. Even though John did not directly plan to detonate the bomb, under Section 4 of The Explosive Substances Act, 1908, his actions of making and possessing the explosive with the knowledge that it would be used to endanger life or property would be illegal. John could be arrested and, if convicted, face life imprisonment or up to ten years in prison, in addition to fines, regardless of whether the bomb was actually used or not.

Section 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.

Simplified

If someone makes or has any explosive materials or particularly dangerous explosive materials and it seems suspicious, like they might not have a legal reason for it, they must prove they're using or holding them legally. If they can't prove it, they could face:

- (a) For any explosive material, up to ten years in jail and a possible fine.
- (b) For extremely dangerous explosive materials, mandatory hard labor for life, or hard labor for up to ten years and a possible fine.

Explanation using Example

Imagine a scenario where a local police officer receives a tip that an individual named John is storing large quantities of a substance in his garage that appears to be an explosive. Upon obtaining a search warrant, the police find that John has several barrels of ammonium nitrate, which is a common ingredient in certain types of explosives. John does not have a mining license, nor does he have any other apparent lawful use for the substance.

Under Section 5 of The Explosive Substances Act, 1908, the circumstances give rise to a reasonable suspicion that John is not possessing the ammonium nitrate for a lawful object. Since John cannot provide a satisfactory explanation for the lawful use of the substance, he could be charged and, if found guilty, punished with imprisonment for up to ten years and also be liable to a fine, as per the provisions of the Act.

Section 6: Punishment Of Abettors

Any person who by the supply 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.

Simplified

If someone helps, encourages, or is involved in any way with committing a crime covered by this law—whether by giving money, offering a place to do it, providing materials, or anything else—they will be punished just as severely as the person who actually commits the crime.

Explanation using Example

Imagine John, who owns a hardware store, is approached by Alice. Alice buys large quantities of chemicals that can be used to make explosives. John suspects she might be using them for illegal purposes but does not report her and continues to supply the chemicals. Later, it's discovered that Alice used those chemicals to create an explosive device that she detonated in a public area, which is an offence under the Explosive Substances Act, 1908. Under

Section 6, because John supplied materials and had suspicions he did not act upon, he could be seen as aiding or abetting Alice in her crime. Consequently, John could face the same punishment as Alice for her offence, as he is considered an accessory to the crime.

Section 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.

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A person cannot be put on trial for breaking this law unless the District Magistrate agrees to it.