



LAWS OF KENYA

EXPLOSIVES ACT

CHAPTER 115

Revised Edition 2012 [1989]

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

CHAPTER 115

EXPLOSIVES ACT

ARRANGEMENT OF SECTIONS

Preliminary

Section

1. Short title.
2. Interpretation.
3. Appointment of inspectors.

Manufacture of Explosives

4. Restriction of manufacture of unauthorized explosives.
5. Restriction of manufacture of authorized explosives.

Storage of Explosives

6. Restriction of storage or possession of unauthorized explosives.
7. Restriction of storage or possession of authorized explosives.

Licensed Dealers in Explosives

8. Licence necessary to deal in explosives.
9. Permit necessary to acquire blasting materials.

Importation, Exportation and Use of Explosives

10. Prohibition of importation and exportation of explosives without permit.
11. Prohibition of use of blasting materials without permit.
12. Penalties.

Movement of Explosives within Kenya

13. Prohibition of conveyance of explosives without permit.

Licensing of Factories and Explosives Magazines

14. Application for licence to erect factory.
15. Notice of inquiry into expediency of granting of licence, and objections.
16. Constitution, powers and duties of commission.
17. Powers of Commissioner to grant or refuse licence.
18. Issue of licence.
19. Amendment of licence.
20. Transfer of licence.
21. Revocation of licence, and lapse of same.
22. Application for licence to erect or use explosives magazine.
23. Penalty for unlicensed factory or magazine.

Powers of Inspectors

24. Powers of inspectors to enter and inspect premises.
25. Penalties for obstructing inspector or refusing to answer inquiries, etc.
26. Power to stop dangerous methods.

Explosives

Section

- 27. Duty of occupier of a factory to make special rules.
- 28. Penalties for endangering safety or causing loss of life.
- 29. Penalty for making, possession or control of explosive for unlawful object.
- 30. Rules.
- 31. Expiration of licences and permits.
- 32. Saving.

SCHEDULE – AUTHORIZED EXPLOSIVES

CHAPTER 115

EXPLOSIVES ACT

[Date of commencement: 1st July, 1931.]

An Act of Parliament to consolidate and amend the law relating to the manufacture, storage, sale, transport, importation, exportation and use of explosives

[Act No. 13 of 1929, Act No. 46 of 1948, Act No. 30 of 1953, L.N. 342/1956, L.N. 343/1956, L.N. 172/1960, L.N. 173/1960, Act No. 28 of 1961, L.N. 761/1963, L.N. 2/1964, L.N. 124/1964, L.N. 236/1964, Act No. 21 of 1966, Act No. 12 of 1970, Act No. 18 of 1986.]

Preliminary

1. Short title

This Act may be cited as the Explosives Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**authorized explosive**” means any explosive specified in the Schedule, and any other explosive which the Minister may declare, by notice in the *Gazette*, to be an authorized explosive;

“**blasting material**” means any explosive used for the purpose of blasting;

“**Commissioner**” means the Commissioner (Mines and Geology), or any officer whom he may depute to exercise the powers conferred upon the Commissioner by this Act;

“**danger building**” means any building or part thereof used as an explosives factory or explosives magazine or in connection therewith, other than a building or part thereof in which no material of an explosive nature is made, used or kept, in respect of which—

- (a) the licence clearly indicates that it does not constitute a danger building; or
- (b) a certificate has been granted by an inspector to the effect that it does not constitute a danger building;

“**Director**” *deleted by Act No. 30 of 1953, s. 2;*

“**explosives**” means—

- (a) 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 herein mentioned or not, which is used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect;
- (b) any fuse, rocket, detonator or cartridge, and every adaptation or preparation of an explosive as herein defined; or

- (c) any other substance which the Minister may, by notice in the *Gazette*, declare to be an explosive,

but does not include ammunition as defined in the Firearms Act (Cap. 114);

“**explosives factory**” means any site licensed under this Act for the manufacture of any explosives, together with every mound, building (including an explosives magazine), and work thereon for whatsoever purpose used;

“**explosives magazine**” means any building licensed under this Act for the storage of explosives;

“**inspector**”, unless otherwise qualified, means a chief inspector or an inspector of explosives, or any person deputed to act as an inspector under section 3;

“**local authority**” *deleted by L.N. 124/1964, Sch.*;

“**manufacture**” means the making and division of any explosive from or into its component parts by any process, the conversion of an explosive into an explosive of another kind, and the alteration, fitting for use or repair of, any explosive;

“**premises**” means any land, road, harbour, river, building, structure, ship, boat or other vessel, or any part thereof, or any tent, railway truck, motor vehicle, cart, van or other vehicle;

“**the rules**” means rules made and in force under this Act;

“**unauthorized explosive**” means any explosive which is not an authorized explosive.

[Act No. 30 of 1953, s. 2, L.N. 343/1956, L.N. 173/1960, L.N. 124/1964, Sch.]

3. Appointment of inspectors

(1) There shall be a chief inspector of explosives and such other inspectors of explosives and such other officers as may be necessary (under whatever title as may from time to time be determined) for the purposes of this Act.

(2) The Commissioner may depute other persons to act as inspectors in certain localities and for certain purposes; and in so far as any such person is authorized so to act he shall have the same powers and be subject to the same duties as are conferred and imposed upon inspectors by this Act.

[Act No. 30 of 1953, s. 3, L.N. 124/1964, Sch.]

Manufacture of Explosives

4. Restriction of manufacture of unauthorized explosives

(1) No person shall manufacture any unauthorized explosive unless—

- (a) it is manufactured solely for the purposes of chemical experiment and not for sale, and in quantities not exceeding five hundred grams in weight at any one time, or two kilograms in all; or
- (b) it is manufactured solely for practical trial as an explosive and not for sale, and in such quantities and under such conditions as may be specified in writing by an inspector.

(2) Any person who contravenes the provisions of this section or any conditions imposed under the powers thereof shall be guilty of an offence and

liable to a fine not exceeding five thousand shillings or, in default of payment, to imprisonment for a term not exceeding two years, and the explosive in respect of which the contravention has taken place shall be forfeited.

(3) The owner and the occupier of any premises in or on which an unauthorized explosive has been manufactured in contravention of this section shall be deemed to be the manufacturer, unless such owner or occupier (as the case may be) satisfies the Court before which he is charged that he was unaware that any such contravention was occurring or had occurred.

(4) The burden of proving that any manufacture of an unauthorized explosive was solely for purposes of chemical experiment or practical trial and not for sale shall, in any prosecution under this section, be upon the accused.

[Act No. 30 of 1953, s. 4, Act No. 12 of 1970, 1st Sch.]

5. Restriction of manufacture of authorized explosives

(1) No person shall manufacture any authorized explosive in any place other than an explosives factory.

(2) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or, in default of payment, to imprisonment for a period not exceeding two years, and the explosive in respect of which any such contravention has taken place shall be forfeited.

[Act No. 30 of 1953, s. 5.]

Storage of Explosives

6. Restriction of storage or possession of unauthorized explosives

(1) No person shall keep, store or be in possession of any unauthorized explosive—

- (a) unless it has been manufactured as provided by section 4(1)(a), and does not exceed two kilograms in weight; or
- (b) unless it has been manufactured as provided by section 4(1)(b), and is kept, stored or possessed in such manner and in such quantities as have been approved in writing by an inspector.

(2) Subsections (2), (3) and (4) of section 4 shall apply *mutatis mutandis* in the event of any contravention of this section or of any of the conditions imposed thereunder.

[Act No. 12 of 1970, 1st Sch.]

7. Restriction of storage or possession of authorized explosives

(1) No person shall keep, store or be in possession of any authorized explosive in or on any premises—

- (a) except in an explosives factory or explosives magazine; or
- (b) unless the explosive is kept for private use, and not for sale or other disposal, and in accordance with rules; or
- (c) unless the explosive is kept for use in the construction of any railway, road or other public work, in quantities not exceeding two thousand five hundred kilograms in weight, and is stored in a temporary magazine approved by an inspector and under conditions specified in writing by an inspector; or

- (d) unless the explosive is kept in quantities not exceeding five hundred kilograms in weight, and is stored in an isolated place approved by an inspector and under conditions specified in writing by an inspector; or
- (e) unless the explosive is kept by a person in possession of a licence, as provided in section 8, to deal in explosives, and in accordance with any conditions attached to that licence or prescribed by the rules.

(2) Any person who contravenes the provisions of this section or any condition imposed or prescribed thereunder or mentioned therein shall be guilty of an offence and liable to a fine not exceeding three thousand shillings, or, in default of payment, to imprisonment for a term not exceeding one year, and the explosive in respect of which the contravention has taken place shall be forfeited.

(3) The owner and the occupier of any premises in, at or on which any contravention of this section has occurred shall be guilty of an offence and liable to the penalties prescribed for any such contravention, unless such owner or occupier (as the case may be) satisfies the Court before which he is charged that he was unaware that any such contravention was occurring or had occurred.

[Act No. 30 of 1953, s. 6, Act No. 12 of 1970, 1st Sch.]

Licensed Dealers in Explosives

8. Licence necessary to deal in explosives

(1) No person, other than the manufacturer, shall sell, deal in or dispose of any explosive unless he is in possession of a licence granted under this Act.

(2) For the purposes of this section, a manager, as defined in the Mining (Safety) Regulations (Cap. 306, Sub. Leg), who in outlying districts and in accordance with rules supplies other consumers, shall not be deemed to be a dealer, unless he sells at a profit.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or, in default of payment, to imprisonment for a term not exceeding one year.

[Act No. 30 of 1953, s. 7, s. 10, Act No. 28 of 1961, Sch.]

9. Permit necessary to acquire blasting materials

(1) No person shall purchase or otherwise acquire blasting materials except under the authority of, and to the extent authorized in, a written permit issued by an inspector.

(2) No person shall sell or dispose of blasting materials to any person who fails to produce at the time of the transaction a permit of the type referred to in subsection (1) nor shall any person sell or dispose of any such materials in excess of the quantity referred to in such permit.

(3) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or, in default of payment, to imprisonment for a term not exceeding one year.

[Act No. 30 of 1953, s. 8.]

*Importation, Exportation and Use of Explosives***10. Prohibition of importation and exportation of explosives without permit**

No person shall import or export, or cause to be imported or exported, any explosive, unless he has obtained a permit issued, in the case of blasting materials, under the authority of an inspector, or, in the case of other explosives, by any person authorized by the Commissioner to issue such a permit.

[Act No. 30 of 1953, s. 3.]

11. Prohibition of use of blasting materials without permit

(1) No person shall use, or cause to be used, any blasting materials—

- (a) at a depth of ten metres or more, measured from the surface along or down a shaft, adit, well or tunnel, unless he is in possession of a valid miner's blasting certificate issued to him under the Mining Act (Cap. 306), or is under the immediate supervision of the holder of such a certificate; or
- (b) in all other cases, unless he is in possession of a valid miner's blasting certificate issued to him under the Mining Act (Cap. 306) or of a valid permit issued to him for such purpose by an inspector, who is hereby authorized so to do, or unless he is under the immediate supervision of a person in possession of either such a certificate or permit.

(2) No permit shall be issued unless the issuing authority is satisfied that the applicant may be safely entrusted with the use of blasting materials, and that there is necessity for his using the same.

(3) The Commissioner may, in his discretion, at any time, by order revoke a permit issued under this section or under section 10, if he is satisfied that good cause for such revocation exists.

(4) Any person dissatisfied by an order of revocation made by the Commissioner under this section may appeal against such order to the Minister, whose decision shall be final.

[Act No. 30 of 1953, s. 9, L.N. 342/1956, L.N. 172/1960, Act No. 12 of 1970, 1st Sch.]

12. Penalties

Any person who contravenes sections 10 and 11 shall be guilty of an offence and liable to a fine not exceeding three thousand shillings, in default of payment, to imprisonment for a term not exceeding one year.

[Act No. 30 of 1953, s. 10.]

*Movement of Explosives within Kenya***13. Prohibition of conveyance of explosives without permit**

(1) No person shall convey explosives or cause them to be conveyed within Kenya, except under and in accordance with a permit in writing issued by an inspector:

Provided that—

- (i) this section shall not apply to safety fuses, percussion caps or fireworks;

- (ii) no permit shall be required for the conveyance of explosives within any land or property belonging to or occupied by the person conveying, or authorizing the conveyance of the explosives.

(2) Any person who contravenes the provisions of this section, or of any permit issued under this section, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or, in default of payment, to imprisonment for a term not exceeding six months.

[Act No. 30 of 1953, s. 11.]

Licensing of Factories and Explosives Magazines

14. Application for licence to erect factory

(1) Every person who desires to erect or establish any factory for the manufacture of explosives shall make application in writing to the Commissioner accompanied by a draft licence together with diagrams or plans of the proposed factory, on such scale or scales as the Commissioner may require, and the application shall set forth and specify—

- (a) the situation and extent or area of the land on which it is proposed to erect the factory, together with the area of land surrounding the same which it is proposed to leave free of buildings;
- (b) the several distances which it is proposed to maintain between the several danger buildings respectively, and between those danger buildings and other buildings or works used in connection with the factory;
- (c) the materials to be used in, and the mode of construction of, all danger buildings and works on, in or used in connection with the factory;
- (d) the nature of the processes of manufacture to be used in the factory, the place at which each process of manufacture and every description of work is intended to be carried on in the factory and the places on or in which it is proposed to keep in store any ingredients of explosives or other articles liable to spontaneous ignition or combustion or otherwise dangerous;
- (e) the quantity of explosives, or of any partly or wholly mixed ingredients thereof, which it is proposed to use simultaneously in or near any building or in or near any machine;
- (f) the maximum number of persons of each race which it is proposed to employ in each danger building in the factory;
- (g) any further particulars which the Commissioner may require, having regard to any special circumstances arising from the locality or construction of any buildings or works, or to the nature of any process to be carried on therein.

(2) The Commissioner may refuse any such application or direct that a public inquiry be held, as is provided in section 15, as to the expediency of granting the application.

(3) Any person dissatisfied by a decision of the Commissioner under this section may appeal against such decision to the Minister, whose decision shall be final.

[Act No. 30 of 1953, ss. 3 and 13, L.N. 342/1956, L.N. 172/1960, L.N. 761/1963.]

15. Notice of inquiry into expediency of granting of licence, and objections

(1) In the event of the Commissioner directing that such an inquiry as aforesaid be held, he shall cause a notice to be published at the cost of the applicant, stating that application has been made under this Act for the grant of a licence to erect a factory for the manufacture of explosives, describing as far as possible the proposed site of the factory, and stating that a commission will sit to hear any objections to the grant of such a licence, and the date, time and place on or at which that commission will sit to hear the application.

(2) The notice shall be published once a week, during three consecutive weeks, in the *Gazette* and in one or more newspapers circulating in the district in which it is proposed to erect or establish the factory, and the commission shall not sit till the expiration of at least one week from any last publication of the notice.

(3) The local authority having jurisdiction in an area in which, or within two kilometres of which, is situate the site of the proposed factory, and any person residing or carrying on business within a like distance, or any person who can show a substantial interest in opposing the grant of a licence, may, either individually or jointly with others, lodge an objection in writing to the grant of any such licence with the chairman of the commission not later than seven days before the sitting of the commission.

(4) Every applicant for a licence or objector thereto may appear before the commission in support of his application or objection, either in person or by a deputy authorized thereto in writing by the applicant or objector.

[Act No. 30 of 1953, s. 3, Act No. 12 of 1970, 1st Sch.]

16. Constitution, powers and duties of commission

The commission shall consist of an inspector (who shall be the chairman of the commission) and two other persons appointed for the purpose by the Commissioner, and it shall, as soon as may be after the conclusion of its sitting, make a report to the Commissioner, with such recommendations as it may think fit.

[Act No. 30 of 1953, s. 3.]

17. Powers of Commissioner to grant or refuse licence

(1) Upon consideration of the report and recommendations of the commission, the Commissioner may refuse the application for a licence, or may grant the application with or without modifications and conditions.

(2) Any person dissatisfied by a decision of the Commissioner under this section may appeal against such decision to the Minister, whose decision shall be final.

[Act No. 30 of 1953, s. 3, L.N. 342/1956, L.N. 173/1960.]

18. Issue of licence

Any licence under this Act to erect, establish and maintain a factory for the manufacture of explosives shall, if granted, be issued by the Commissioner on payment of a sum of two thousand shillings:

Provided that no explosive shall be manufactured until the chief inspector of explosives is satisfied that the premises in respect of which the licence has been granted are in a sufficiently complete state to enable the provisions of this Act and rules to be carried out and complied with in all respects.

[Act No. 30 of 1953, s. 3, Act No. 18 of 1986, Sch.]

19. Amendment of licence

Any licence or the conditions thereof may, upon application, be amended by the Commissioner, who shall not consent to the amendment except upon a report by an inspector that the safety of the public or of any person employed in or at the licensed factory will not be thereby diminished:

Provided that no such amendment shall be inconsistent with this Act or the rules.

[Act No. 30 of 1953, s. 3, Act No. 28 of 1961, Sch.]

20. Transfer of licence

(1) Any licence may be transferred into the name of another person:

Provided that four weeks' notice in writing of a desire to transfer shall be sent to the Commissioner, who shall not refuse such a transfer except on the ground that the proposed transferee is not a suitable person to hold such a licence.

(2) Any person dissatisfied by a decision of the Commissioner under this section may appeal against such decision to the Minister, whose decision shall be final.

[Act No. 30 of 1953, s. 3, L.N. 342/1956, L.N. 172/1960.]

21. Revocation of licence, and lapse of same

(1) The Commissioner may revoke any licence issued under section 18.

(2) Every licence shall *ipso facto* expire if the holder thereof has ceased to carry on, for a period of one year, any work authorized by the licence, and shall become void if the premises in respect of which the licence was granted have been used for any trade or work not authorized by the licence.

(3) Any person dissatisfied by a decision of the Commissioner under this section may appeal against such decision to the Minister, whose decision shall be final.

[Act No. 30 of 1953, s. 3, L.N. 342/1956, L.N. 172/1960.]

22. Application for licence to erect or use explosives magazine

(1) Any person desiring to erect or carry on a magazine for the storage of explosives shall make application for a licence for the same to an inspector, who may grant such a licence, subject to the observance of the rules and after consultation with the local authority, if any, and upon such other conditions as he may think fit to attach to the licence.

(2) Sections 19, 20 and 21 shall apply *mutatis mutandis* in respect of any licence granted under this section.

[Act No. 30 of 1953, s. 15.]

23. Penalty for unlicensed factory or magazine

Any person who establishes, erects, maintains or uses a factory for the manufacture of explosives, otherwise than in accordance with a valid licence issued under this Act, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

[Act No. 30 of 1953, s. 16.]

Powers of Inspectors

24. Powers of inspectors to enter and inspect premises

It shall be lawful for any inspector—

- (a) to enter any explosives factory or explosives magazine at any hour of the day or night for the purpose of inspecting the same and of making inquiries relative to the compliance with this Act and the rules, or relative to the means used therein for preserving the safety of the public or of any person employed therein;
- (b) to enter at any hour of the day or night upon any premises in which explosives are kept, or in which there is good reason to suspect that explosives are being manufactured or stored or kept or conveyed in contravention of this Act or the rules, and to inspect any such premises and to make all such inquiries thereon as he may think fit;
- (c) to require the occupier or other person for the time being in charge of any explosives factory, explosives magazine or other premises in this section mentioned, to furnish for purposes of analysis or test samples of explosives or ingredients of explosives or any substance found therein or suspected of being an explosive or an ingredient of an explosive:

Provided that no such powers as are conferred by this section shall be so exercised as unnecessarily to hinder the work carried on in any such factory, magazine or premises aforesaid.

25. Penalties for obstructing inspector or refusing to answer inquiries, etc.

Any person who wilfully obstructs or hinders any inspector in the exercise of the powers or duties conferred or imposed upon him by this Act or the rules, or disobeys any lawful order of an inspector, or who upon demand fails to answer as far as he may be able any question lawfully put by an inspector, or who gives false information to an inspector, whether in answer to any such question or not, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or, in default of payment, to imprisonment for a term not exceeding one year.

[Act No. 30 of 1953, s. 17.]

26. Power to stop dangerous methods

(1) If an inspector finds any method of work, storage, packing or use in connection with explosives to be in conflict with this Act or the rules, or to be in his opinion dangerous to the public security or to the safety of any person, he may in his discretion—

- (a) confiscate and remove the explosives;
- (b) by order in writing require the immediate discontinuance of such method;
- (c) by order in writing require such remedial measures to be taken as in his opinion are necessary.

(2) Any person who is dissatisfied with a confiscation or requisition done or made under this section may within thirty days thereof appeal to the chief inspector of explosives, who shall give his decision thereon with the least possible delay.

(3) If an appellant is dissatisfied with a decision of the chief inspector of explosives given under this section he may within thirty days of such decision appeal therefrom to the Minister, whose decision shall be final.

(4) The provisions of this section shall be without prejudice to any prosecution.

[Act No. 30 of 1953, s. 18, L.N. 343/1956, L.N. 173/1960.]

27. Duty of occupier of a factory to make special rules

(1) Every occupier of a factory shall, subject to the approval of the chief inspector of explosives, make special rules, not inconsistent with this Act, for regulating the persons employed in that factory with a view to securing the observance therein of the provisions of this Act and the rules, the safety and proper discipline of all such persons and the safety of the public.

(2) The occupier of any explosives magazine or of any premises where explosives are dealt in shall, if it seems to an inspector to be necessary, make such special rules, not inconsistent with this Act, as are described in subsection (1).

(3) The occupier of any such factory, magazine or premises shall take all reasonable steps for ensuring or enforcing the observance of any such special rules.

(4) In respect of penalties, any special rules made under this section shall be deemed to be rules under this Act.

28. Penalties for endangering safety or causing loss of life

(1) Any person causing an explosion whereby life or property is endangered shall be guilty of an offence and liable to the following penalties, according as the explosion was negligently or wilfully caused, that is to say—

- (a) if the explosion is negligently caused and property is endangered, he shall be liable to a fine not exceeding five thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months, or to both;

- (b) if the explosion is negligently caused and life is endangered, he shall be liable to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months, or to both;
- (c) if the act or omission causing the danger to life or property is wilful the maximum penalty hereinbefore mentioned in this section shall, if death does not result therefrom, be twelve years' imprisonment without the option of a fine;
- (d) if the explosion is negligently caused and death results, he shall be liable to a fine not exceeding twenty thousand shillings or, in default of payment, to imprisonment for a term not exceeding two years, or to both.

(2) Nothing in this section contained shall be construed as exempting any person from being charged and punished under the Penal Code (Cap. 63) or any other written law in respect of any such act or omission as is described in this section.

29. Penalty for making, possession or control of explosive for unlawful object

Any person who makes or knowingly has in his possession or under his control any explosive, in circumstances which 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 guilty of an offence and liable to imprisonment for a term not exceeding seven years, and the explosive shall be forfeited.

[Act No. 30 of 1953, s. 19.]

30. Rules

(1) The Minister may make rules as to all or any of the following matters, namely—

- (a) the construction of explosives factories, explosives magazines and other danger buildings;
- (b) the conditions under which the manufacture of explosives may be carried on;
- (c) the storage of explosives, whether in explosives magazines or elsewhere;
- (d) the use of explosives;
- (e) the packing, transport, importation and exportation of explosives, and the making of special rules governing the packing and transport at individual places, and the landing and handling of explosives in ports and harbours;
- (f) the issue of licences to dealers in explosives, the conditions of any such licence, the restrictions which may be placed upon the sale or disposal of explosives to particular classes of persons, and the quantity of any explosive which may be purchased by any person or company under permit from the officer authorized by such rules;

- (g) the inquiry into the circumstances of explosions endangering or causing injury to persons or property or death, and for the reporting of all such explosions;
- (h) the prevention of trespass in or upon an explosives factory, or in or upon any explosives magazine or other place where explosives are kept;
- (i) the tests to which explosives, or the raw materials from which explosives are manufactured, are liable to be submitted;
- (j) the manner in which appeals under section 26 shall be notified and conducted;
- (k) prescribing the statistics which manufacturers, dealers and users of explosives may be called upon to supply;
- (l) prescribing the fees payable for licences or permits, and any renewals or duplicates or amendments thereof,

and generally for the protection of life and property and for the better carrying out of the objects and purposes of this Act.

(2) The rules may provide penalties for the contravention thereof or failure to comply therewith not exceeding in any case a fine of five thousand shillings or, in default of payment, imprisonment for a term not exceeding two years, and the rules may further provide that the explosive, if any, in respect of which the contravention or non-compliance has taken place may be forfeited.

(3) The rules may prescribe daily penalties for a continuing contravention or non-compliance, or increased penalties for a second or subsequent contravention or non-compliance.

(4) Different rules may be made in respect of different regions, districts or areas.

[Act No. 30 of 1953, s. 20, Act No. 28 of 1961, Sch., L.N. 343/1956, L.N. 173/1960, L.N. 236/1964, Sch.]

31. Expiration of licences and permits

Every licence or permit issued under this Act shall expire on the 31st December in the year of issue unless renewed.

[Act No. 30 of 1953, s. 21.]

32. Saving

Nothing in this Act shall apply to—

- (a) the importation, storage, use or transport of any explosive by the armed forces, by any other armed forces lawfully in Kenya, or by any other force or service constituted by or under any written law and lawfully in possession of explosives;
- (b) any ammunition a licence to possess or to deal in which is regulated by any other law;
- (c) the use or storage underground of any explosive at any mine as defined by the law for the time being in force regulating mines, works and machinery;

- (d) the possession or conveyance of any explosive taken as a sample for the purpose of this Act by an inspector or other duly authorized person, provided the quantity is not more than is reasonably necessary for the performance of his duty and every sample is kept and conveyed with all due precaution;
- (e) the keeping for sale of fireworks in such quantities and subject to such conditions as may be prescribed by the rules.

[Act No. 21 of 1966, 1st Sch.]

SCHEDULE

[Section 2, Act No. 30 of 1953, s. 22.]

AUTHORIZED EXPLOSIVES

The undermentioned explosives are declared to be authorized explosives under this Act—

Gelatinous explosives (such as blasting gelatine, gelignite, gelatine dynamite, etc.).

Non-gelatinous explosives (such as dynamite, ligdyn, farmers' dynamite, etc.).

Nitro-cotton.

Detonators.

Danolite and instantaneous detonating fuse.

Gunpowder.

Sporting powder.

Percussion caps.

Fireworks of various kinds.

And imported explosives, whether contained in the above list or not, are deemed to be authorized explosives, if included in and conforming to the "authorized list" in forces in the United Kingdom.

CHAPTER 115

EXPLOSIVES ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. Explosives (Blasting Explosives) Rules, 1962	21
2. Explosives (Fireworks) Rules, 1962	55

Rules under section 30

EXPLOSIVES (BLASTING EXPLOSIVES) RULES, 1962

[L.N. 321/1962, L.N. 271/1969, Corr. No. 97/1969, L.N. 94/2010.]

PART I – PRELIMINARY

1. These Rules may be cited as the Explosives (Blasting Explosives) Rules, 1962.

2. In these Rules, unless the context otherwise requires—

“**blaster**” means a person conducting blasting operations;

“**blasting cartridge**” means an authorized explosive of either Class I, II, III or IV made up in cartridge form other than ammunition as defined in the Firearms Act (Cap. 114);

“**blasting explosives**” means a chemical compound or mechanical mixture of two or more constituents used or manufactured with a view to producing a practical effect by explosion;

“**capped fuse**” means a length of safety fuse to the end of which a detonator has been attached or crimped;

“**chief inspector**” means the chief inspector of explosives, appointed under section 3 of the Act;

“**chlorate mixture**” means any explosive containing a chlorate;

“**class**”, in relation to explosives, means the relevant class into which explosives are divided in rule 3;

“**detonator**” means a solid drawn aluminium or copper tube containing a mixture of explosive of Class V used to initiate the explosion of high explosives in blasting operations and includes capped fuse;

“**detonating fuse**” means fuse consisting of high explosive enclosed in a waterproof covering of textile impregnated or coated with plastic composition;

“**division**” in relation to explosives means a division into which classes of explosives are divided under the Explosives Act, 1875 of the United Kingdom (No. 38 & 39 Vict c. 17);

“**fulminate**” means any chemical compound or mechanical mixture which, from its great susceptibility to detonation, is suitable for employment in percussion caps or other appliances for developing detonation or which from its extreme sensibility to explosion, and from its great instability (that is to say, its tendency to undergo decomposition from very slight exciting causes) is especially dangerous;

“**gunpowder**” means exclusively gunpowder ordinarily so called consisting of an intimate mixture of saltpetre (potassium nitrate), sulphur and charcoal, such saltpetre not containing as an impurity perchlorate of potash in greater quantity than one per cent;

“**misfire**” includes partial misfire;

“**nitrate mixture**” means any preparation other than gunpowder, formed by the mechanical mixture of a nitrate with any form of carbon or with any carbonaceous substance not possessed of explosive properties, whether sulphur be added to such preparation or not and whether such preparation be mechanically mixed with any other non-explosive substance or not;

[Subsidiary]

“**nitro-compound**” means any chemical compound possessed of explosive properties or capable of combining with metals to form an explosive compound, which is produced by the chemical action of nitric acid (whether mixed or not with sulphuric acid) or of a nitrate mixed with sulphuric acid upon any carbonaceous substance, whether such compound is mechanically mixed with other substances or not;

“**percussion cap**” means a capsule or case of metal containing less than 40 milligrams of fulminate, and of which not more than 25 per cent consists of fulminate of mercury or less than 32 milligrams of any other fulminate. When “percussion caps” contain anvils or when the cap composition is unprotected by tin foil or other suitable substance they shall be deemed to be detonators;

“**safety fuse**” means a fuse for blasting which burns and does not detonate and which does not contain its own means of ignition and which is of such strength and construction and contains an explosive in such quantity that the burning of such fuse will not communicate laterally with other like fuses;

“**shot**” means an explosion of explosives;

“**special rules**” means rules made under section 27 of the Act;

“**stout case**” or “**substantial case**” means a case of such strength, construction and character that it will not ordinarily break or accidentally open, or become defective or insecure whilst being conveyed or stored and will not allow the explosives to be damaged or escape.

[L.N. 271/1969, 1st Sch.]

PART II – CLASSIFICATION OF EXPLOSIVES

3. (1) Explosives shall, for the purposes of these Rules, be divided into seven classes as follows:—

Class I	Gunpowder.
Class II	Nitrate mixture.
Class III	Nitro-compounds.
Class IV	Chlorate mixture.
Class V	Fulminates.
Class VI	Explosives of the ammunition group other than those covered by the Firearms Act.
Class VII	Fireworks.

(2) When an explosive falls in more than one class it shall be deemed to belong exclusively to the last of the foregoing classes in which it falls.

PART III – LICENSING OF FACTORIES AND CONDITIONS FOR THE MANUFACTURE OF EXPLOSIVES

4. (1) No part of any explosive factory shall be used for any purpose not authorized in writing by the chief inspector by inclusion in the terms of the licence or as otherwise provided by these Rules.

(2) The conditions of the licence shall be duly observed and the manufacture, or keeping, or any process in, or work connected with, the manufacture or keeping of explosives shall not be carried on except in accordance with those conditions; the chief inspector may define, vary, add to or withdraw any such conditions in writing, in which case the document defining, varying, adding to or withdrawing any condition shall be kept by the licence and shown with the licence.

[Subsidiary]

(3) Every explosives factory and part thereof shall be maintained in accordance with the conditions of the licence and no material alterations in the factory, by enlarging or adding to the site, or by externally adding to or enlarging any building, or by altering any mound, otherwise than by enlargement, or by any new work, shall be made except as authorized in writing by the chief inspector.

(4) In the event of any contravention of or failure to comply with this rule, the occupier shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for a term not exceeding three months, and in the case of the second or subsequent offence to a fine not exceeding two thousand shillings or, in default of payment, to imprisonment for a term not exceeding six months.

(5) The occupier of a factory shall not be deemed to be guilty of a breach of this rule for using in a case of emergency, or temporarily, one building or part of a building in which any process of manufacture is, under the terms of the licence, carried on, for another process of manufacture, if he does not carry on in such building or part more than one process at the same time, and if the quantity of explosives or ingredients thereof in such building or part do not exceed the quantity allowed to be therein, or any less quantity allowed to be in the building or part of a building in which such other process is usually carried on, and if, immediately upon such use being commenced, he sends notice of such use to an inspector and the inspector does not direct discontinuance of such use.

5. (1) In respect of every explosives factory, the following restrictions shall be observed—

- (a) nothing shall be stored or taken into the factory or part thereof in which explosives are manufactured or stored, save the receptacles, tools and implements relating to such manufacture or storage;
- (b) the interior of every danger building in the factory and the benches, shelves and fittings therein, shall, so far as is reasonably practicable, be kept clean and free from grit;
- (c) lightning conductors or other provisions against lightning shall be thoroughly examined at intervals not exceeding six months by a competent person and a certificate that the result of the test is satisfactory shall be forwarded to an inspector within one month of the test;
- (d) no charcoal, whether ground or otherwise, oiled cotton, oiled rags or oiled waste, or other article whatsoever whether liable to spontaneous ignition or not, shall be taken into any danger building, except for the purpose of immediate supply and work, or for immediate use in such building, and upon the cessation of such work or use every such article shall be forthwith removed;
- (e) before repairs are done to or in any room in a danger building, the building shall, so far as is practicable, be cleaned by the removal of all explosives and wholly or partly mixed ingredients thereof and by the thorough washing out of such room or part thereof; and such room or part of the building after being so cleaned shall not be deemed to be a danger building within the meaning of these Rules until explosives or the wholly or partly mixed ingredients thereof are again taken into it;
- (f) there shall be constantly fixed at every danger building, either outside or inside, in such manner as to be easily read, a statement of the quantities of explosives or ingredients allowed to be in the building and a copy of these Rules, and of any part of the Act required by an inspector to be so affixed, and of such parts of the licence and special rules as apply to the building, with the addition of the name of the building or words indicating the purpose for which it is used; such copy of these Rules, part of the Act and special rules shall be printed in English as well as in the language spoken by the person in charge when such person does not speak English; and a copy of the quantity statement shall be kept elsewhere in a safe place;

*Explosives***[Subsidiary]**

- (g) all tools and implements used in a danger building shall be made only of wood, copper or brass or some soft metal or material, but this paragraph shall not prohibit the use of steel screwdrivers for the opening or closing of cases with lids fastened by means of screws; a list of these tools and instruments shall be posted in the building and no other tools or implements shall be taken into the building;
- (h) due provision shall be made by the use of suitable working clothes without pockets, suitable shoes, by searching or otherwise, for preventing the introduction into any danger building of fire, matches or any substance or article likely to cause explosion or fire, and for preventing the introduction of any iron, steel or grit into any part of a danger building where it would be likely to come in contact with explosives or the wholly or partly mixed ingredients thereof; but this paragraph shall not prevent the introduction in danger buildings other than magazines of an artificial light of such construction, position or character as not to cause any danger of fire or explosion; nor shall it render obligatory the wearing of magazine shoes in magazines which have earthen floors;
- (i) no person shall smoke in or in the vicinity of any explosives factory, or in any other place in which smoking may be prohibited by special rules;
- (j) any vehicle, truck, or other receptacle in which explosives or the partly mixed ingredients thereof are conveyed from one building to another in a factory shall be constructed without any exposed iron or steel in the interior thereof, and shall contain only the explosives and the ingredients, and shall be closed or otherwise adequately covered; explosives and such ingredients shall be so conveyed with all due diligence and with such precautions and in such manner as will sufficiently guard against any accidental ignition;
- (k) no person under the age of sixteen years shall be employed in or enter any danger building, except in the presence and under the supervision of a person of or over the age of twenty-one years;
- (l) no person shall be employed in any danger building unless there is a competent supervisor in charge, except that one competent supervisor may be placed in charge of a specified small number of cartridging huts each of which he shall visit frequently;
- (m) in danger buildings, where in the opinion of an inspector the operations performed are of such nature as to require that they shall be performed only by suitably qualified persons, he shall prohibit the presence of persons other than such qualified persons;
- (n) in a factory the ingredients in the course of manufacture into explosives shall be removed with all due diligence from each working building as soon as the process connected with those ingredients, which is carried on in such building, is completed, and all finished explosives shall with all due diligence either be removed to an explosives factory or magazine or sent away immediately from the factory, and such ingredients and explosives shall be loaded and unloaded with all due diligence;
- (o) all ingredients to be made or mixed into explosives shall whenever possible, before being so made or mixed, be carefully sifted for the purpose of removing therefrom, so far as practicable, all dangerous foreign matter;
- (p) with a view to minimising the risk from grass fires, so much of the ground around a danger building as may be required by an inspector to be kept clear of grass shall be so kept;
- (q) notwithstanding anything to the contrary in these Rules, the introduction of iron or steel in tools, furniture, machines and vehicles, may, if specifically

[Subsidiary]

authorized by an inspector, be permitted in an explosives factory where the particular explosive manufactured requires their use or where there is no danger likely to arise from such use;

- (r) the occupier of every factory shall render to the chief inspector whenever and in such form as he may require, returns of all explosives manufactured in, or despatched from the factory and of all explosives imported or exported by him;
- (s) the occupier of a factory which is no longer used for the purposes for which it was licensed shall notify the chief inspector of the circumstances and shall render a return of all explosives and ingredients thereof under his control; and such explosives and ingredients shall be disposed of in a manner to be approved by an inspector.

(2) Any person who contravenes this rule shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

PART IV – PACKING OF EXPLOSIVES

6. (1) Gunpowder, if not exceeding 2.5 kilograms in weight, shall be contained in a single substantial case, bag, canister or other receptacle.

(2) If exceeding 2.5 kilograms in weight, gunpowder shall be contained in a double package, and in such double package the inner package shall be a substantial case, bag or canister, or other receptacle, and the outer package shall be a stout box, barrel or case of wood, metal or other material.

(3) Gunpowder for blasting shall be packed in bags of leather, India-rubber, calico or other material approved by an inspector, and the bags shall be contained in a stout case, box or barrel.

(4) The amount of explosives in any one inner package, or if there is a double package in any one outer package, shall not exceed 50 kilograms in weight.

(5) On the outermost package there shall be affixed the word "EXPLOSIVE" and the name of the explosives in conspicuous characters.

(6) Explosives, other than of Class I, in powder, granular or pelleted form shall be packed in such manner as the chief inspector may approve.

[L.N. 271/1969, 1st Sch.]

7. (1) Every blasting cartridge whether of blasting gelatine, gelignite, dynamite, gunpowder or other explosive authorized to be manufactured or imported shall be wrapped in a cover of paper or other approved material, bearing the name of the explosive and the recognized trade mark of the manufacturer of the cartridges, and such paper cover shall, except with the consent of and under conditions to be approved by an inspector of explosives, be thoroughly waterproof.

(2) (a) Blasting cartridges, having a diameter of 32 millimetres or less, shall be made up into separate parcels, not exceeding 5 kilograms in weight, and the wrappers of such parcels shall bear the name or recognized trade mark of the manufacturer of the explosives.

(b) The parcels shall be securely packed in a stout case of a type approved by the chief inspector, and the net weight of the explosives in any one such case shall not exceed 20 kilograms.

(c) Every case shall be clearly marked on the outside so as to show the name of the explosive material, and its class and division, strength, cartridge size and the date of

*Explosives***[Subsidiary]**

manufacture, which date shall be in arabic numerals corresponding with the day, month and year of manufacture, and shall not be expressed in code or cypher, thus—

EXPLOSIVES—CLASS III, Division 1

Gelignite 60

2.5 cm. X 20 cm. 2.4.61

[L.N. 271/1969, 1st Sch.]

8. (1) Collodion cotton shall contain at least 25 per cent of moisture and be packed in a stout wooden case having a waterproof inner lining.

(2) The gross weight of the case shall not exceed 95 kilograms.

[L.N. 271/1969, 1st Sch.]

9. (1) Detonators shall be packed by the hundred in tin boxes (labelled with a description of their contents), and shall be isolated from the sides of the boxes by means of paper and from the top and bottom sides by means of approved soft material, all interstices being filled with dry sawdust.

(2) The tin boxes shall be firmly packed in a metal or wooden case, which shall again be enclosed in a substantial outer case, and the intervening space between the cases shall be filled up with sawdust, or else the inner case shall be firmly fixed in position by means of laths.

(3) There shall not be more than 12,500 detonators in any one case and the number and nature of the detonator contained in the case and its class and division shall be shown on the outside of the case, thus—

EXPLOSIVES—CLASS VI, Division 2

12,500 Detonators No. 6

10. (1) Electric detonators (including electric detonator fuses or electric fuses) shall be packed in bundles not exceeding 100 in paper or other bags or cartoons reasonably waterproofed, on which there shall be a label giving the number and contents.

(2) The bags shall be firmly packed in a stout waterproofed outer case.

(3) There shall not be more than 3,000 electric detonators in any one case, and the case shall be so marked as to show the number and the nature of the electric detonators, whether high or low tension, and the length of the wires and the class and division, thus—

EXPLOSIVES—CLASS VI, Division 2

500 Electric Detonators

Low Tension

120 cm. Wires

[L.N. 271/1969, 1st Sch.]

11. Safety fuse shall be in coils (not less than 7.2 metres long), and these shall be placed in a substantial case or barrel, marked externally with the words—

Safety fuse, CLASS VI—Division 1

and also with the number of coils contained in the case or barrel, and every case or package of fuse shall be marked with the limits of the burning rate of the fuse in seconds per metre, thus—

95 Seconds to 120 Seconds per metre

[L.N. 271/1969, 1st Sch.]

[Subsidiary]

12. (1) Detonating fuse and all fuses and cords which burn at a rate faster than 95 seconds per metre shall be packed in a stout waterproofed case approved by the chief inspector.

(2) The packing of such fuses or cords shall have their description and classification marked on the outer case and every inner wrapping or reel.

[L.N. 271/1969, 1st Sch.]

13. Fuse igniters shall be made up in packets containing not more than 20 sticks, and not more than 1,000 fuse igniters shall be packed in any one stout waterproofed case.

14. (1) In addition to any other marking prescribed for packages in these Rules, every outer package shall bear the name or registered trademark of the manufacturer of the explosive, the name and address of the owner and sender and the name of the country in which the explosive was manufactured, and no marking used by a manufacturer or importer in addition to that prescribed by these Rules shall be inconsistent with these Rules.

(2) Nothing in this or any of the foregoing rules shall prevent a manufacturer for the purpose of export only from making use of the name and trademark of an affiliated company overseas, which name and trademark he is otherwise lawfully entitled to use:

Provided that, if such trademark includes the name of a place overseas, the actual place of manufacture shall also be clearly and distinctly stated.

15. (1) Every package which is being used for the packing of one class of explosive shall not, except with the consent of an inspector of explosives, be simultaneously used for the packing of any other explosive.

(2) The interior of every package, whether single or double, shall be kept clean and free from grit.

(3) There shall not be any iron in the construction of any package (inner or outer) of explosives (other than safety fuse), unless the same is effectually covered by zinc, tin or other material.

(4) Every case of explosive liable to become wetted, whether by seawater or otherwise, shall by means of a suitable waterproof lining have its contents protected from damage.

16. Any explosive, whether experimental or otherwise, not specifically dealt with in these Rules shall be packed in such manner as may be in writing prescribed by an inspector, and notwithstanding anything in this Part to the contrary explosives of the nature and in quantities exceeding those specified below may, for the purpose of transport within Kenya, be similarly dealt with—

Gunpowder, 5 kg.

Explosives of Classes II, III or IV, 5 kg.

Detonators, ten tin boxes of 100 each.

Electric detonators, two bags of not more than 50 each.

Safety fuse, 100 coils.

[L.N. 271/1969, 1st Sch.]

17. Any manufacturer or other person who contravenes this Part shall be guilty of an offence and liable to a fine not exceeding four hundred shillings or, in default of payment, to imprisonment for a term not exceeding two months.

[Subsidiary]

PART V – IMPORT AND EXPORT

18. Permits to import or export explosives shall be in Form No. 1 in the First Schedule.

19. (1) Subject to subrule (2), any person who imports or exports any explosives which are not packed and marked in accordance with these Rules shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for a term not exceeding six months, and in addition to such fine or imprisonment or in lieu thereof any explosives in relation to which the offence was committed may be forfeited.

(2) An inspector may authorize the import or export of explosives which are not packed and marked in accordance with these Rules, provided they conform to the relevant regulations of any Commonwealth country in which they were packed and marked, or to which they are to be exported.

20. When applying for a permit to import explosives, the importer shall furnish the inspector or other person authorized by the Commissioner to issue permits with—

- (a) an exact description, including the country of manufacture, of the explosives which it is desired to import, and the name of the country from which it is desired to import such explosives;
- (b) the net weight of the explosives in kilograms, the number of detonators, the length of fuses and cords in metres and the number of fuse igniters; and
- (c) such other information, including certification of quality or composition, as an inspector or other person authorized by the Commissioner may require.

[L.N. 271/1969, 1st Sch.]

21. Consignments of explosives imported via ports in Kenya may be examined by an inspector, and he may require such samples as are reasonably necessary for the purpose of analysis or test.

PART VI – TRANSPORT OF EXPLOSIVES

22. (1) Any person who transports or causes to be transported any explosives otherwise than under and in accordance with the terms and conditions of a permit issued under this rule shall be guilty of an offence.

(2) An inspector may in his discretion on application made to him issue a permit to transport explosives in any one of the following forms—

- (a) a movement permit endorsed upon any permit to purchase or otherwise acquire blasting materials issued under section 9 of the Act;
- (b) a special movement permit in Form No. 2 in the First Schedule, authorising the movement of any special consignment or consignments;
- (c) a continuous movement permit in Form No. 2 in the First Schedule, authorizing the movement of explosives by users of explosives who procure their supplies in Kenya for any period not exceeding one year,

subject to such terms and conditions as he shall specify.

(3) No inspector shall issue a permit unless he is satisfied that the applicant is the occupier of a magazine duly authorized or licensed under the Act or these Rules, or that he is entitled to use blasting materials under section 11 of the Act, and that he understands the requirements of these Rules and will comply with them.

(4) An inspector may refuse to issue a permit if he is not satisfied that transport will be effected in vehicles or wagons which are suitable and secure and so as to avoid the explosives being subjected to extreme variations of temperature.

(5) Every inspector issuing permits shall keep a register of permits issued.

[Subsidiary]

23. (1) When applying for a permit to transport explosives, the applicant shall, so far as is possible, state the quantity and class of the explosive, the mode of transport, the place and probable date of arrival and the name of the consignee.

(2) An inspector may require any further information he may think necessary, and may decline to consider the application if such additional information is not furnished.

24. When a consignment of explosives exceeds 5 kilograms in weight, a copy of the permit shall accompany the consignment throughout the whole journey; or where there is a waybill the permit number shall be quoted thereon.

[L.N. 271/1969, 1st Sch.]

25. (1) No person shall load or unload or cause to be loaded or unloaded a consignment of explosives in the vicinity of a fire or uncovered light, and every person loading or unloading a consignment shall exercise all due care in handling the cases, so as to prevent shaking or jolting.

(2) Any person who contravenes this rule shall be guilty of an offence.

26. (1) No person shall smoke in, on or in the neighbourhood of any vehicle or truck in which explosives are being conveyed, or on, to or from which they are being loaded or unloaded, nor shall any fire be lighted in the vicinity.

(2) Any person who contravenes this rule shall be guilty of an offence.

27. (1) Cases containing different classes of explosives packed in cartridges may be loaded together in the same truck or vehicles, but blasting cartridges shall not be loaded on the same truck or vehicle as detonators, inflammable or combustible materials, acids or uncovered iron or steel, except under and in accordance with the written approval of an inspector, which shall be endorsed upon the transport permit.

(2) During the transportation of explosives—

- (a) the vehicles shall not carry passengers;
- (b) detonators, when not in the unopened tin box of the manufacturer, or capped fuse, shall be carefully packed in a locked and padded receptacle of a type approved by an inspector;
- (c) detonators or capped fuse conveyed with blasting cartridges shall be stored as far apart as possible and in such a position so as to enable them to be removed rapidly in the event of fire;
- (d) detonating fuse may be carried in the same container as blasting cartridges but shall be kept apart from detonators or capped fuses as required by paragraph (c) of this section;
- (e) blasting cartridges shall be conveyed either in unopened cases of 25 kilograms or if in lesser amounts, stored so as to prevent movement and jarring in a locked wooden box, internally clean and free from iron or steel and marked externally with the word "EXPLOSIVES".

(3) Any person who contravenes this rule shall be guilty of an offence.

[L.N. 271/1969, 1st Sch.]

28. (1) Gunpowder shall not be conveyed in the same truck or vehicle as any other explosive (with the exception of safety fuse, fuse igniters and igniter cord), inflammable or combustible material, or naked iron or steel:

Provided that cartridges of gunpowder may be conveyed in the same truck or vehicle as blasting cartridges of other classes.

(2) Any person who contravenes this rule shall be guilty of an offence.

*Explosives***[Subsidiary]**

29. (1) No person shall transmit explosives of any description or in any quantity whatsoever through the post.

(2) Any person who contravenes this rule shall be guilty of an offence.

30. For the purposes of these Rules, "transport by road" includes transport on vehicles drawn by animals, by mechanically or electrically propelled vehicles or by pack animals.

31. The person in charge of a magazine shall be jointly responsible for due compliance with this Part with the person in charge of any vehicle from or on to which explosives are being unloaded or loaded into or from the magazine.

32. (1) The contractor or owner of vehicles used for the transport of explosives shall ensure that—

- (a) the vehicles are in safe and serviceable condition and fitted with efficient brakes;
- (b) that a trustworthy person is appointed to supervise the transport of explosives and that such person is thoroughly acquainted with these Rules;
- (c) that at least two men accompany a vehicle carrying explosives;
- (d) that every mechanically or electrically propelled vehicle used for the transport of explosives complies with the following conditions—
 - (i) that it is not loaded beyond 75 per cent of its carrying capacity, and that no load exceeds 2,700 kilograms except with the written permission of the chief inspector;
 - (ii) that a suitable and efficient chemical fire extinguisher is fitted and mounted thereon in such position as to be available for immediate use in the event of fire;
 - (iii) that the engine is not run during the loading and offloading of explosives;
 - (iv) that only electric lamps are carried;
 - (v) that all the iron and steel portions which are liable to come in contact with cases or barrels of explosives are covered with wood, leather, cloth or other suitable material, and that a tarpaulin or other suitable material is provided to cover explosives in transit.

(2) Any person who contravenes this rule shall be guilty of an offence.

[L.N. 271/1969, 1st Sch.]

33. (1) During the transportation of explosives, the person appointed under rule 32 (1)(b) of these Rules shall be responsible for the safety and security of the explosives, and shall ensure that the following conditions are observed—

- (a) that a red flag at least 45 centimetres square is affixed to the front and rear of the vehicle during loading and transit;
- (b) that when a convoy of explosives exceeds two vehicles, he does not ride on any of the vehicles conveying explosives; or where the convoy consists of two vehicles only that he rides on the rearmost one;
- (c) that vehicles loaded with explosives are not allowed to approach closer than 30 metres to each other;
- (d) that cases or barrels of explosives are securely roped or otherwise secured, and fixed and wedged to prevent movement;
- (dd) that containers carrying cases or barrels of imported explosives are secured by security seals at the port of entry, and that such seals are broken at the point of exit, where such explosives are transit goods or at the destination, where such explosives are for use within the country;

[Subsidiary]

- (e) that no vehicle conveying explosives delays or stops unnecessarily at any place where it might cause public danger, nor passes through any residential or built-up housing area unnecessarily;
- (f) that, in the event of a thunderstorm, all vehicles carrying explosives are halted at least 300 metres from inhabited buildings and a safe distance from overhead conductors of electricity and trees;
- (g) that, should it be necessary to halt during the night on a journey, this is done at a distance of at least 500 metres from inhabited buildings, and watch is kept over the vehicles;
- (h) that all the vehicles carrying explosives are kept as far as possible from traction, railway and other engines that may emit sparks;
- (i) that explosives are not unloaded from a vehicle en route except in the event of a breakdown of the vehicle; and if it is absolutely necessary to unload the whole or part of a consignment that all possible care is taken to protect the explosives from fire and damp; that explosives are not placed near inhabited buildings and the person in charge shall warn persons against loitering near the explosives; that the explosives are reloaded, and the journey continued, as soon as possible; and that on the completion of the journey notice is given to the chief inspector of the circumstances which necessitated the unloading of the explosives en route;
- (j) that, on arrival at destination, explosives are transferred without delay from the vehicle to the place of storage;
- (k) that in no circumstances are explosives left unattended.

(2) Any person who contravenes this rule shall be guilty of an offence.

(3) The Commissioner may, in addition to these Rules, issue guidelines on the local transportation of explosives intended for use within the country.

[L.N. 271/1969, 1st Sch., L.N. 94/2010.]

34. (1) It shall be lawful for any local authority to prescribe within its jurisdiction the route to be followed by vehicles carrying explosives.

(2) Any person who within the area of jurisdiction of any local authority transports explosives or causes explosives to be transported by a vehicle, by any route other than a route prescribed by that authority, shall be guilty of an offence.

35. (1) An inspector or any police officer may detain a vehicle or convoy carrying explosives to ascertain whether these Rules are being observed.

(2) Whenever a police officer has reason to suspect any irregularity with regard to the transport of explosives by road he shall take the earliest practicable steps to bring the matter to the notice of an inspector.

(3) Any person who obstructs any inspector or police officer in the due exercise of his powers under this rule shall be guilty of an offence.

36. Any person who commits an offence under this Part shall be liable to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for a term not exceeding six months.

PART VII – EXPLOSIVES MAGAZINES—LICENSING AND CONSTRUCTION OF MAGAZINES

37. (1) Licences to store blasting explosives and renewals thereof shall be in Form No. 3 in the First Schedule and no such licence or renewal thereof shall relate to more than one magazine or premises.

*Explosives***[Subsidiary]**

(2) There shall be paid for every licence or renewal or transfer thereof the fee prescribed in the Second Schedule.

(3) Notwithstanding subrule (2), where any application, for the renewal of any licence is received more than thirty days after expiry thereof, there shall be payable for the renewal thereof, in addition to the fee prescribed in, the Second Schedule, a penalty equal to the amount of that fee.

(4) No licence shall be transferred without the written approval of an inspector endorsed thereon.

38. Every application under section 22 of the Act for permission to erect a magazine shall be accompanied by—

- (a) a statement showing quantity and nature of explosives to be stored therein, the administrative district and the name of the local authority, if any, within whose jurisdiction the site falls;
- (b) three copies of a plan, drawn to scale, showing the site of the proposed magazine in relation to neighbouring roads, railways, buildings and boundaries of properties, together with a statement on the nature and use of such buildings and properties, as well as the contour of the ground on which it is desired to erect the magazines, and the plan shall have drawn therein, with the site as centre, circles with radii proportionate to the distances prescribed for the quantity of explosives in the Table of Safety Distances specified in rule 41;
- (c) a plan or plans, in duplicate showing the design and specifications of the proposed magazines and mounds.

39. (1) The building of an explosives magazine, including mounds, shall not be commenced until the plans have been approved, and the construction shall be strictly in conformity with the approved plans.

(2) One copy of the approved plans shall be attached to the magazine licence when issued to the applicant, and one copy shall be retained in the office of the inspector issuing the licence.

40. Every licence shall state the maximum quantity and the nature of the explosives to be stored in the magazine.

41. (1) The following table of distances shall form the basis on which applications for magazine licences shall be considered when the magazine is protected by mounds—

TABLE OF SAFETY DISTANCES

INSIDE SAFETY DISTANCES (Metres)			OUTSIDE SAFETY DISTANCES (Metres)	
I	II (Mounded)	III (Mounded)	IV (Mounded)	V (Mounded)
Net weight of explosives (kg)	Magazines or explosives stores	Process building private roads, footpaths or railways	Railways, aerodromes, docks, sports ground, public highways, etc., and dwelling-house with consent of occupier	Dwelling-house without consent of occupier, shops, public buildings, factories, petroleum stores, hospitals and other buildings where persons may assemble
50	10	19	23	46
100	12	22	24	47
250	16	28	32	64

Explosives

[Subsidiary]

INSIDE SAFETY DISTANCES (Metres)			OUTSIDE SAFETY DISTANCES (Metres)	
I	II (Mounded)	III (Mounded)	IV (Mounded)	V (Mounded)
Net weight of explosives (kg.)	Magazines or explosives stores	Process building private roads, footpaths or railways	Railways, aerodromes, docks, sports ground, public highways, etc., and dwelling-house with consent of occupier	Dwelling-house with- out consent of occupier, shops, public buildings, factories, petroleum stores, hospitals and other buildings where persons may assemble
500	20	36	47	97
1,000	25	55	75	149
1,500	28	72	96	191
2,000	31	86	113	228
2,500	33	96	128	256
3,000	35	109	147	294
4,000	38	122	163	325
5,000	41	135	179	358
7,500	47	158	212	422
10,000	52	177	235	469
15,000	59	205	273	543
20,000	65	225	301	600
25,000	70	243	325	648
30,000	75	258	344	688
35,000	79	273	363	725
40,000	82	285	379	758
45,000	86	297	395	790

No one magazine building shall contain more than 45,000 kilograms of explosives.

(2) For the purpose of the table appearing in, subrule (1), gunpowder will be considered as equal to half the quantity of other explosives.

(3) When a magazine is erected in the vicinity of a power-line, the magazine shall be separated from the power-line by a horizontal distance of not less than 20 metres.

(4) Where in the opinion of the Commissioner or of an officer deputed by him for the purpose the proposed situation of the magazine is such as to reduce the danger in case of accident, he may direct that the distances in column V of the table in this rule may be reduced to not less than half for the purpose of its application to such magazine.

[L.N. 271/1969, First and Second Schs.]

42. (1) The licensee of a magazine shall not erect or construct, in the vicinity of the magazine, any building or work in such a position as to be in conflict with the conditions under which the magazine was licensed, unless the erection or construction has received the approval, in writing of the chief inspector.

(2) Where, by reason of any such new erection or construction, the situation of the magazine in relation to surrounding premises conflicts with the table of distances in rule 41 or with any approved modification thereof, the licence shall be cancelled or amended.

[Subsidiary]

43. In isolated places or where the contour of the ground renders it unnecessary in the opinion of the Commissioner or officer deputed by him, he may dispense with mounds, wholly or in part.

44. (1) Except with the written approval of the Commissioner, no magazine shall be licensed to contain more than 5,000 kilograms of explosives.

(2) Except with the special permission of the Minister, no mine magazine shall be licensed to contain more than 12,000 kilograms of explosives.

[L.N. 271/1969, 1st Sch.]

45. Except where it is desired to construct a magazine in a tunnel, cutting or disused mine working, or under a mine dump, or in such a locality as may warrant special consideration under rule 41(4) or rule 43, the construction of a magazine shall be in conformity with rule 46, and its distance from neighbouring objects not less than those provided for in rule 41(4).

46. (1) Materials used in the construction of a magazine may differ according to the locality and surroundings, but shall be as approved by an inspector.

(2) There shall be no window in any magazine.

(3) Except with the written permission of an inspector, the height from floor to ceiling shall be at least 2 metres.

(4) Except with the written permission of an inspector, in every magazine—

(a) there shall be at least two separate compartments, namely a storage room and a lobby through which alone access can be had to the storage room;

(b) the doors of storage rooms and of lobbies shall open outwards and shall not be fitted with padlocks; and the hinges and locks on the inner doors shall be of brass;

(c) the outer door shall be secured by means of not less than four substantial sliding metal tongues on the inside thereof, one to be situated approximately at each of the four corners of the door and so contrived that when the door is secured each tongue will protrude into the frame of the door for a distance of not less than 2.5 centimetres; and the sliding tongues shall be controlled by a locking device of a pattern approved by an inspector.

(5) Proper provision shall be made for ventilation of magazines, and the temperature in the storage room shall not exceed 35 degrees centigrade.

(6) Magazines shall be completely lined with wood or, with the written approval of an inspector, with a suitable plaster finish; and if the outer wall is of wood or iron the lining shall be at least three inches from the outer wall and the intervening space shall be filled with non-conducting material or, with the written approval of an inspector, shall remain unfilled.

(7) Except with the written approval of an inspector, there shall be no exposed iron in any magazine.

(8) (a) Every magazine shall be efficiently protected against lightning.

(b) Where earth resistance is abnormally high and the frequency of thunderstorms in an area is low, the necessity for lightning conductors may be waived by the chief inspector.

(c) Where lightning conductors are required a register shall be maintained by the manager showing measurements obtained by test resistances of all earthing points; and such tests shall be conducted by qualified persons and under conditions approved by the chief inspector, and shall be carried out at intervals not exceeding six months.

[Subsidiary]

(9) Unless exempted under rules 43 and 45, every magazine shall be surrounded by substantial earthen mound, which shall be—

- (a) at least 2 metres above the level of the floor of the magazine or to such other height as may be required by an inspector;
- (b) at least 1 metre wide at the top.

(10) The door shall be clearly inscribed with the words “EXPLOSIVES MAGAZINE” in paint, together with the official reference number or letter of the magazine.

(11) Proper provision shall be made for drainage.

(12) The magazine and mound and so much of the land surrounding it shall, if so required by the Commissioner, be fenced in.

(13) (a) Two sets of keys for all magazine doors and gates shall be provided by the licensee, and shall be kept under conditions of security.

(b) One set of magazine keys shall be in the sole possession of the manager and these shall be available at any time for emergency use or for inspection of the magazine; and the licensee shall safely retain the other set and may be called upon to deliver it to an inspector in case of emergency.

[L.N. 271/1969, 1st Sch.]

47. (1) It shall be the duty of every licensee to ensure that his magazine complies with this Part, and where any magazine does not meet with the requirements of this Part, or contravenes this Part, the licensee shall be guilty of an offence.

(2) Any person who contravenes this Part shall be guilty of an offence.

(3) Any person who is guilty of an offence under this Part shall be liable to a fine not exceeding one thousand shillings or, in default of payment, thereof to imprisonment for a term not exceeding three months.

PART VIII – STORAGE OF EXPLOSIVES GENERALLY

48. Every explosives magazine shall be in charge of an explosives manager acquainted with these Rules and any special rules, and such manager shall be responsible for their due observance in relation to the magazine, and for the keeping in English of the records required by rule 51.

49. Every explosives manager of a magazine of which he is not the owner shall be appointed, in writing, by the owner, or by the duly authorized agent of the owner of the magazine, or in the case of a mine or other works by the manager thereof, and failing such appointment the owner, agent or manager, as the case may be, shall himself be responsible for the due compliance with, and for any breach in relation to the magazine, mine or other work of, this Part, or any special rules.

50. (1) No quantity of explosives shall be stored in any magazine in excess of the quantity detailed on the licence thereof, except with the written sanction of the chief inspector to cover a special situation for a temporary period.

(2) Explosives shall be stored only in the storage chamber or chambers of a magazine, and lobbies and passages shall not be used for this purpose otherwise than as provided for in rule 56(2).

(3) Every magazine shall be kept locked at all times, except when necessary operations connected with explosives, which shall be personally supervised by the manager, are required to be conducted therein.

*Explosives***[Subsidiary]**

(4) The explosives manager shall ensure, on leaving the magazine, that it is securely locked, and in the event of any lock becoming defective he shall take immediate steps to have the defect remedied.

(5) Explosives shall not be left unguarded by day in a magazine with a defective lock.

(6) No explosives shall be left by night in a magazine with a defective lock, unless they are under police protection.

(7) Whenever it appears to an inspector to be necessary for the security of a magazine, a watchman or watchmen shall be placed in charge of it by the occupier, upon being so directed by the inspector.

(8) Whenever a magazine has been broken into or there are signs that such action has been attempted, the matter shall at once be reported to the nearest police station and to an inspector, whether there is any deficiency of stock or not.

51. An explosives storage book the pages of which shall be in Form No. 4 in the First Schedule shall be kept in English by the person in charge of every magazine, and in it he shall enter all receipts and issues of explosives, stating from whom they were received and to whom issued, and shall also record the maximum and minimum temperature since the preceding visit.

52. (1) Explosives shall not be issued from any magazine except on the written order of an inspector or upon the signed receipt in the explosives storage book of an authorized blaster working on the same project as the explosives manager concerned, and the person in charge of a magazine shall satisfy himself that the person removing the explosives is provided with a permit issued under section 13 of the Act, where such a permit is necessary for the conveyance of the explosives in question.

(2) Explosives shall, so far as practicable, be issued in the same rotation as they were received.

53. (1) Explosives of every class shall be stored separately, except that—

- (a) explosives of Class I in cartridge form, and Classes II, III and IV and such explosives of Class VI, Division 2, as do not contain any exposed iron or steel, may be kept with each other;
- (b) detonators and all other explosives of Class VI, Division 3, shall not be stored with any other explosives but in a separate magazine so situated as to prevent the sympathetic detonation of adjacent magazines of explosives except that, if the quantity does not exceed 500 No. 6 detonators or the equivalent thereof, such explosives may be stored in separate chambers under such conditions as are approved in writing by an inspector;
- (c) safety fuses and cords in unopened cases may be stored in a magazine with any class of explosives as an inspector may approve in writing.

(2) Explosives of Class V and any unauthorized explosives, held pending authorisation, shall not be stored with any other class of explosives.

(3) Every danger building shall be used only for the keeping of such explosives as are specified in the licence, and of such receptacles, tools or implements for work connected with the keeping of such explosives as are permitted by rule 57.

54. (1) Safety fuses may with the written approval of an inspector be stored in any secure cool and dry place other than a magazine.

(2) Fuse igniters may be kept under lock and key in any dry place provided they are separate from other explosives.

[Subsidiary]

55. Cases of blasting cartridges shall not be stored more than 1.8 metres high, and shall be so arranged as to facilitate turnover and readily admit of inspection.

[L.N. 271/1969, 1st Sch.]

56. (1) Cases of explosives shall be opened singly and shall not be opened in the storage chamber of any magazine, but in the lobby or outside.

(2) Any explosives remaining after completion of any work shall be destroyed immediately under safe conditions unless a magazine is available for their safe storage, in which event they shall be returned to the magazine; and if the magazine contains a lobby such explosives shall be stored only in the lobby.

57. (1) Tools necessary for opening cases of explosives shall be kept in every magazine, except that, where two or more magazines are erected within one storage area, one set of tools may be provided for the area.

(2) When a magazine consists of a storage chamber and lobby, the tools shall be kept only in the lobby.

(3) Such tools shall be of wood, copper, brass or similar material, but not of iron or steel, except that a steel screwdriver may be kept only if cases with lids fastened by screws are stored in the magazine.

(4) Other metal tools, such as spades, picks, crowbars and the like, shall not on any account be kept in the storage chamber or lobby of a magazine.

(5) A soft brush shall be kept in every magazine.

58. Where a magazine is constructed with a lobby, at least two pairs of large magazine shoes (galoshes) in good condition shall be kept in the lobby of every such magazine, and no person shall be allowed to enter the storage chamber of the magazine unless he first puts on a pair of magazine shoes, or removes his boots or shoes.

59. The floor and walls of every magazine shall be kept scrupulously clean and dry.

60. (1) No explosives which have been underground or which are damp, soiled or in any way defective shall be kept in or returned to a magazine without the written approval of an inspector:

Provided that explosives or packages which have become damaged, damp, soiled or defective in transit may be placed apart from other explosives in a magazine to await temporarily the instructions of an inspector, to whom the circumstances shall be immediately reported by the quickest method.

(2) When any explosives are found or suspected to have deteriorated in quality, full particulars shall be reported without delay to an inspector.

(3) Explosives shall not be buried in the ground for safe keeping.

(4) The disposal by destruction or otherwise of any explosives required by virtue of section 26 of the Act shall be the responsibility of the owner thereof and at his expense.

61. (1) Subject to subrule (2), no person shall smoke in, or make or have a fire, oil lamp or naked light in or in the vicinity of, a magazine; nor shall any person take into a magazine any pipe, tobacco, cigarette or matches or any means of striking a light.

(2) Where it is necessary to use an artificial light in a magazine, it shall be of such character and construction as may be approved in writing by an inspector.

62. (1) Every magazine shall be effectively protected from grass fires and to this end vegetation on mounds shall be cut as short as possible.

[Subsidiary]

(2) The area between every magazine and its mound shall be kept clear of all vegetation and inflammable material.

63. A reliable maximum and minimum thermometer shall be kept in the storage chamber of every magazine licensed to contain 500 kilograms of explosives or more.

[L.N. 271/1969, 1st Sch.]

64. Repairs shall not be carried out in any magazine whilst explosives are stored therein, except with the consent of and under conditions to be prescribed by an inspector.

65. Unauthorized persons shall not be permitted to loiter in the vicinity of a magazine, and the owner of any magazine and any employee of such owner shall have power to remove persons so loitering.

66. No person under the age of sixteen shall be employed about a magazine or permitted to enter therein.

67. Where a magazine contains a lobby, a copy of these Rules, of any special rules and of the magazine licence shall be posted in the lobby of the magazine in such a position as to be easily read.

68. Any explosives for the storage of which no specific provision has been made in the preceding rules shall be stored only in such place and manner as may be prescribed in writing by an inspector.

69. A special permit, in Form No. 5 in the First Schedule, to store explosives (other than explosives of Class V) in small quantities for private purposes, and not for sale, may be granted by an inspector, subject to the following conditions—

- (a) that the applicant is authorized to use the explosives or has engaged the services of a person so authorized;
- (b) that the applicant has good and sufficient reason for the use of the explosives on a short-term project, which shall be specified in the permit;
- (c) that the quantity of explosives purchased and stored for use at any one time does not exceed 5 kilograms net weight, 100 detonators, 200 metres of safety fuse, 200 metres of detonating fuse and 10 fuse igniters;
- (d) that the explosives are stored under such conditions as an inspector prescribes on the permit;
- (e) that no permit is valid for a period exceeding 30 days from the date of issue thereof;
- (f) that an inspector may, at his discretion and at any time, revoke the permit.

[L.N. 271/1969, 1st Sch.]

70. (1) Any person who contravenes this Part shall be guilty of an offence.

(2) Where, in relation to any magazine, mine or other works, there is a contravention or failure to comply with this Part, then, without prejudice to his liability for any offence under subrule (1) the manager, owner or his agent, or manager of the mine or other works, responsible under rule 47, shall be guilty of an offence.

(3) Any person who is guilty of an offence under this Part shall be liable to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for a term not exceeding six months.

PART IX – DEALING IN EXPLOSIVES

71. (1) Upon application made to him in that behalf, and upon payment of a fee of fifty shillings, an inspector may issue an annual licence to deal in blasting explosives, under section 8 of the Act, subject to such terms and conditions as he thinks fit.

(2) Every such licence shall be in Form No. 6 in the First Schedule, and, unless sooner revoked, shall be valid for the period shown therein.

(3) An inspector may at any time by notice in writing revoke or suspend any licence if he is satisfied that the licensee has contravened or failed to comply with any of the terms and conditions of his licence or the provisions of the Act or any rules made thereunder.

(4) Any person who is aggrieved by the revocation of his licence under this rule may, within fourteen days of receiving notice thereof, appeal in writing to the Minister, whose decision thereon shall be final and shall not be questioned in any court.

72. A permit to purchase or otherwise acquire blasting materials under section 8 of the Act shall be in Form No. 7 in the First Schedule to these Rules, and signed by an inspector.

73. (1) Every dealer in blasting explosives shall keep a record in English to the satisfaction of an inspector of the nature and amount of blasting explosives stored and sold, and the numbers of permits to purchase (of which he shall retain the duplicate copies), and the dates of sale and the names of purchasers, and shall produce his records to any inspector, police officer or duly appointed officer of the local authority when asked so to do.

(2) He shall return at the end of each month the completed duplicate copies of the permits to purchase to the office of the inspector who issued them, together with a statement of balance of stock and total sales during the month.

74. Every such dealer shall have affixed to the outside of his shop, store or premises the following notice—

“DEALER IN BLASTING EXPLOSIVES”

75. In relation to the sale thereof, no gunpowder, granular explosives or cartridges shall be dispensed from a magazine, except in unopened cases or in unopened inner packets.

76. (1) A licensed dealer shall not keep in his shop quantities of explosives in excess of the following amounts—

- (a) in the case of blasting explosives (Class I), not more than 50 kilograms;
- (b) in the case of blasting explosives (Classes II, III and IV), not more than 25 kilograms in the aggregate;
- (c) in the case of detonators, not more than 20 boxes containing 100 each.

(2) Different classes of explosives shall be separated in conformity with subrule (1) of rule 53, and stored in locked receptacles to the satisfaction of an inspector.

(3) Detonators shall be separated from other explosives by a distance of not less than 2 metres.

[L.N. 271/1969, 1st Sch.]

77. Any person who contravenes this Part shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for a term not exceeding three months.

[Subsidiary]

PART X – USE

78. (1) Any inspector, verbally or in writing, may prohibit, restrict or regulate the use of explosives in places where, in the opinion of an inspector, owing to the close proximity of buildings blasting may appear to endanger life or property.

(2) The use of explosives on or in the immediate vicinity of any public thoroughfare is prohibited, except under and in accordance with the written approval of an inspector.

(3) Any person who contravenes or fails to comply with any directions of an inspector under subrule (1), or who contravenes this rule, shall be guilty of an offence.

79. (1) No person shall use or transport or cause to be used or transported any explosives, in the working of any mine, quarry, excavation or other project, unless he has first appointed an explosives manager and has notified such appointment in writing to an inspector.

(2) The explosives manager shall be directly responsible for the security of all explosives used, transported or stored on the mine, quarry, excavation or other project.

(3) Any person who fails to appoint an explosives manager as required by subrule (1) shall himself be deemed to be the duly appointed explosives manager.

80. (1) The explosives manager of any mine, quarry, excavation or other project in relation to which explosives are used shall—

- (a) be responsible for the safety and security of all explosives used, transported or stored, except when the explosives have been handed to the blaster for use;
- (b) be responsible for the safety of every person not the holder of a valid permit to use blasting materials who may be employed or working on the project, whether under his direct supervision or not, unless he can prove that the person was operating under the direct supervision and control of the holder of such a valid permit at the time of any contravention of these Rules or of any special rules, or accident;
- (c) be responsible for the enforcement of any special rules made for the regulation, safety and proper discipline of persons employed or for the security of the explosives under his control;
- (d) ensure that only a blaster undertakes or supervises blasting operations, and that such person is in possession of a valid permit issued under section 10 of the Act;
- (e) provide every blaster with at least two strong waterproof boxes made of wood with brass fittings and hinged lids suitable for carrying explosives, which boxes shall be painted red and conspicuously marked with the words “EXPLOSIVES (BARUTI)” in block letters;
- (f) keep one set of the keys of the boxes and give the other to the blaster when he is on duty; and
- (g) ensure that the blaster’s keys to the boxes are returned to him on each occasion the blaster goes off duty.

(2) The explosives manager, with the written approval of an inspector, may delegate in writing any part of his responsibility to another person, in which event a copy of such delegation signed by the explosives manager and the person accepting the responsibility shall be sent to the inspector.

81. (1) Subject to subrule (2), no explosives shall be withdrawn from a magazine nor shall explosives be used, prepared or fired between the hours of 5 p.m. to 6.30 a.m.

[Subsidiary]

(2) Application in writing for exemption from subrule (1), supported by reasons, may be made by the owner or explosives manager to an inspector, who may grant such exemption if he is satisfied as to the necessity thereof, and he may insert such conditions to the exemption as he thinks fit.

(3) Where an inspector refuses such an application, the applicant may appeal within seven days to the chief inspector, whose decision shall be final.

82. Regulations 75, 78, 80, 93 to 102 inclusive, and regulations 104 to 121 inclusive, of the Mining (Safety) Regulations (Cap. 306, Sub. Leg) shall apply to the use of blasting explosives generally and for this purpose reference therein to holders of miner's blasting certificates and inspectors of mines shall be construed as being references to holders of valid permits to use blasting materials issued under section 11(1)(b) of the Act and inspectors of explosives respectively.

83. (1) A permit to use blasting materials issued under section 11(1)(b) of the Act shall be in, Form No. 8 in the First Schedule.

(2) The fee for such permit or renewal thereof shall be ten shillings, and the fee for a certified copy thereof shall be two shillings.

84. Wherever blasting materials are used, the owner shall provide the tools and equipment required under these Rules, and the manager shall take all reasonable steps to ensure that such tools and equipment are properly used and maintained in good order and repair.

85. A blaster on any mine, quarry, excavation or other project shall—

- (a) place and keep his issue of detonators and safety fuse from the magazine in one box issued to him under rule 80(1)(e) and his other explosives in the second box;
- (b) after completing his work and complying with rule 56(2), ensure that the boxes are left clean and empty;
- (c) keep the boxes securely locked at all times, except when explosives are being inserted therein, removed therefrom or inspected;
- (d) keep his keys to the boxes only while on duty and return them to the explosives manager on all occasions when going off duty;
- (e) be responsible for the safety and security of all explosives handed to him for use, and maintain, if required by an inspector, in English, a blaster's daily record book the pages of which shall be in Form No. 9 in the First Schedule;
- (f) be responsible for the safety of all persons under his direct control assisting with the charging up and firing of blasting materials or in connection with the use thereof;
- (g) comply with regulation 111 of the Mining (Safety) Regulations (Cap. 306, Sub. Leg);
- (h) in the event of a suspected misfire, comply with regulations 95, 96, 97, 98 and 99 of the Mining (Safety) Regulations relating to misfires, if practicable under the circumstances; but when blasting powder is used or compressed air or water under pressure is not available the procedure detailed in rule 87 of these Rules shall be adopted;
- (i) not use a delay detonator unless the number indicating the period of delay is clearly marked on the detonator or on the lead thereof;
- (j) when charges are fired under water, make and secure the efficient carrying out of the arrangements to ensure that no shot is fired unless—
 - (i) the charge is of a water resistant type and protected as far as possible from becoming wet;

[Subsidiary]

- (ii) in the event of a misfire, the charge can be readily recovered;
- (k) ensure that all holes are cleared out before charging is commenced;
- (l) ensure that no person shall charge with blasting powder any shot-hole in which a shot has previously been fired by means of safety fuse;
- (m) ensure that no person shall charge a hole in which a shot has previously been fired unless the hole has been so treated as to ensure that it is cool and that any burning material therein is extinguished and there has elapsed since the firing of that shot—
 - (i) where the hole is to be charged with gunpowder, two hours;
 - (ii) in any other case, thirty minutes;
- (n) ensure that no person other than himself or an assistant working in conformity with regulation 102 of the Mining (Safety) Regulations shall—
 - (i) remove or interfere with the wrapping of any blasting cartridge; or
 - (ii) attach any detonator to any fuse; or
 - (iii) insert a capped fuse into a blasting cartridge; or
 - (iv) charge up or fire any hole; or
 - (v) treat or attempt to deal with any misfire.

86. Every shot shall be treated as a misfire if it fails to explode—

- (a) in the case of a shot being fired by safety fuse (whether or not in conjunction with the use of a detonating fuse), after the blaster has withdrawn after once lighting or attempting to light the safety fuse or other material or apparatus approved by the chief inspector for firing shots by safety fuse;
- (b) in the case of a shot being fired electrically (whether or not in conjunction with the use of a detonating fuse), after the blaster having attempted unsuccessfully to fire the shot (whether a single shot or a round) has followed the procedure prescribed in regulation 120 of the Mining (Safety) Regulations (Cap. 306, Sub-Leg).

87. The alternative method of dealing with misfires mentioned in rule 85 shall be as follows—

- (a) the site of a misfired hole shall be exposed by removing the debris by hand or with wooden tools and no metallic tools shall be used in such work;
- (b) when gunpowder (Class I) has been charged, the tamping shall be carefully removed with a wooden spoon, copper scraper or other instrument approved by an inspector, preferably with the use of water, and the hole shall then be flooded with water until the charge has become thoroughly saturated;
- (c) when explosives other than of Class I have been charged, a relieving bore shall be drilled under the personal supervision of a blaster, parallel to, at least 15 centimetres deeper than and not nearer than 50 centimetres from the misfired hole; the relieving hole shall then be charged and detonated and a thorough search shall be made of the resulting debris to recover any unexploded charge from the misfire;
- (d) the above-mentioned process shall be repeated as often as may be necessary until the blaster has satisfied himself that the misfire has been rendered safe and that further work may proceed in the vicinity without hazard.

[L.N. 271/1969, 1st Sch.]

[Subsidiary]

88. (1) Any person drilling a hole to relieve a misfire shall ensure that the hole is drilled in such manner as to avoid touching or otherwise affecting any unexploded detonator or charge in the misfire.

(2) If any misfire contains a detonator, the blaster shall attach the leads or fuse thereof by string to the shot-firing cable, or to some distinctive marker before work in the vicinity is permitted.

89. At any place where debris resulting from a shot is being worked, treated or removed, any worker finding evidence of explosives or detonator wires in or under the debris shall bring the matter to the notice of the other persons in the vicinity and shall forthwith report it to his immediate supervisor, who shall thereupon close the place to further work pending an examination by a blaster.

90. (1) In respect of holes of greater depth than 3 metres, the explosive charges shall be initiated only by means of detonating fuse; and the end of the fuse shall be threaded through or firmly attached by means of tape, string or thin copper wire to the first cartridge to be charged into the hole.

(2) After the first cartridge has been lowered to rest on the bottom of the hole, the fuse shall be cut off the reel at a point not less than 15 centimetres beyond the collar of the hole and firmly secured; and the reel shall then be removed to a safe place not less than 20 metres from the hole before any further explosive is charged into the hole.

(3) The detonator required for setting off the shot shall not be brought into the immediate blast area until all such holes have been charged and connected up and are in every other respect ready for firing.

(4) This rule shall not apply when holes are charged with blasting powder (Class I) or in seismic work or in borehole drilling operations or in tunnel or shaft sinking operations.

[L.N. 271/1969, 1st Sch.]

91. (1) No person other than a blaster having previous experience of such process shall destroy blasting explosives by burning except under the direct personal supervision of such a blaster.

(2) A description of the type and quantity of blasting explosives destroyed and the reasons for their destruction shall be sent by the person responsible for their destruction to an inspector, and shall be entered in the explosives storage book provided for by rule 51, and such entry shall be dated and signed.

(3) When an order is given for the destruction of explosives under section 26 of the Act, no compensation shall be payable to the owner thereof for any explosives so destroyed, and the owner shall defray any expenses incurred in connection with the destruction of such explosives.

92. Any person who contravenes this Part shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for a term not exceeding three months.

PART XI – ACCIDENTS—REPORTS AND INQUIRIES

93. Where any accident by fire or explosion occurs in or about any explosives factory or magazine, or while explosives are being transported, the occupier of the factory or magazine, the transport contractor, railway manager or any other person responsible for the transport shall forthwith send notice of the accident, together with a statement of any loss of life or any personal injury, to the chief inspector.

94. (1) Where fire or accident occurs as mentioned in rules 93 to 96, inclusive, it shall be an offence for any person to interfere in any way with the site or evidence at the place of the explosion or fire, except in so far as may be necessary for the removal of victims or for

*Explosives***[Subsidiary]**

the safety of persons or property, until permission for interference has been granted by an inspector or a police officer of or above the rank of Inspector.

(2) Where a danger building has been partly or wholly destroyed by fire or explosion, such danger building shall not be reconstructed nor shall any explosive be put therein, except with the consent of an inspector of explosives.

95. Whenever any accident by fire or explosion occurs in or about any premises occupied by a dealer in explosives whereby loss of life or personal injury is caused, the occupier shall immediately send notice thereof to the chief inspector.

96. Whenever an accident causing loss of life or personal injury occurs in the use of explosives, the person in charge of the operations shall forthwith send notice thereof to the chief inspector.

97. Whenever any accident by explosion takes place otherwise than as described in rules 93 to 96, inclusive, notification thereof shall forthwith be sent to the chief inspector.

98. (1) A subordinate court of the first or second class shall hold an inquiry into the cause of any occurrence of which notice is required by rules 93 to 96, inclusive, whether or not a fatality is connected with or results from the occurrence:

Provided that it may dispense with such inquiry if it is satisfied, upon consideration of a written report of the person undertaking the investigation mentioned in rule 99 or upon a report submitted by the police, that it is unnecessary to hold such inquest or inquiry.

(2) If the court decides to hold such inquiry, an inspector or other representative of the Commissioner shall be present to assist, and the Court shall adjourn the inquiry unless such an officer is present to assist in the proceedings.

(3) The court, at least fourteen days before holding the adjourned inquiry, shall cause notice in writing of the time and place of holding the adjourned inquest or inquiry to be sent to the inspector in whose district the accident occurred.

(4) An inspector or other representative of the Commissioner shall be at liberty at any such inquiry to examine any witness, subject to the power of the Court to disallow any question which, in its opinion, is not relevant or is otherwise not a proper question.

(5) Any relative of any person whose death or injury may have been caused by the accident with respect to which the inquiry is being held, and the owner, agent or manager of the project or premises where the accident occurred, and any person representing any association of workmen to which the deceased belonged or any association of which the owner is a member, shall be at liberty to attend and examine any witness, either in person or by advocate or agent, subject to the power of the Court to disallow any question which, in its opinion, is not relevant or is otherwise not a proper question.

99. (1) Upon receiving notice under rule 93, rule 95 or rule 96 an inspector or any person deputed by the Commissioner for the purpose shall as soon as possible hold an investigation into the cause of the accident and forthwith submit a report to the Court concerned.

(2) Where as a result of the investigation required by subrule (1) there is reason to believe that such accident, explosion or fire was due to negligence or malice or that it was in the nature of an outrage, the inspector or person holding such inquiry shall forthwith give notice to this effect to the police officer in charge of the district.

100. An inspector may himself or by any person deputed by the Commissioner for the purpose hold an inquiry into the circumstances attending any explosion whereof notification is required under rules 93 to 97, inclusive, and to that end such inspector or person may—

- (a) enter and inspect any building which it may seem to him necessary to inspect;

Explosives

[Subsidiary]

- (b) require the attendance of all necessary witnesses and require them to answer such questions as he may think fit to put;
- (c) require the production of all necessary books, papers and documents;
- (d) administer oaths and require any person examined to sign a declaration of truth of the statement made by him in his examination:

Provided that no person shall be required to answer any question that may tend to incriminate him.

101. Any person who contravenes this Part, or who obstructs or fails to comply with any lawful order of a public officer acting in pursuance of the provisions of or powers conferred by this Part, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or, in default of payment, to imprisonment for a term not exceeding six months.

102. Nothing in these Rules shall apply to any fireworks or firework composition as defined in the Explosives (Fireworks) Rules.

FIRST SCHEDULE

[L.N. 271/1969, 1st Sch.]

EXPLOSIVES (BLASTING EXPLOSIVES) RULES

FORM No. 1

(r. 18)

PERMIT TO IMPORT/EXPORT EXPLOSIVES

Permit No. is issued to

 under section 10 of the Act and subject to the Rules made thereunder for a period not exceeding
 Name of suppliers
 Country of manufacture
 Port of entry/exit
 Mode of transport and route

The quantities and classes of explosives stated on this permit shall not be exceeded or altered in any way.

Class	Description	No. of Cases	Weight
.....
.....
.....
.....
.....

Issued at on the, 20

Inspector of Explosives

Explosives

[Subsidiary]

FIRST SCHEDULE, FORM No. 1—*continued*

N.B.—When the explosives have been received/despached, the triplicate copy of this permit must be signed and returned by the holder to the Chief Inspector of Explosives, Mines and Geological Department, P.O. Box 30009, Nairobi.

.....
Signature of Holder

[Subsidiary]

FIRST SCHEDULE—continued
 EXPLOSIVES (BLASTING EXPLOSIVES) RULES
 SPECIAL/CONTINUOUS/RAIL/ROAD TRANSPORT PERMIT
 (r. 22)

FORM No. 2

No.

Name and address of consignee	Quantity and nature of explosives authorized to be transported	Mode of transport	Place from which the explosives are to be transported	Place to which the explosives are to be transported	Probable date of departure	Probable date of arrival at destination	Name and address of permittee

I hereby authorize of to transport explosives by rail/road in accordance with the above particulars and subject to the provisions of the Explosives Rules (Blasting Explosives) Rules. This permit shall be valid for days from the date hereof. Issued at on the 20

.....
 Inspector of Explosives

Explosives

[Subsidiary]

FIRST SCHEDULE—continued

EXPLOSIVES (BLASTING EXPLOSIVES) RULES

FORM No. 3

(r. 37(1))

LICENCE TO STORE BLASTING EXPLOSIVES

Magazine Licence No.
 Name
 Address
 Place of business

 Type of business
 Situation of magazine

Description and amounts of explosives permitted to be stored:—

<i>Class</i>	<i>Division</i>	<i>Type</i>	<i>Amount</i>
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Conditions of Storage Licence:—

.....

Fee paid:

Date of expiry of the Licence — the 31st day of December, 20

Issued at on the, 20

Inspector of Explosives

Explosives

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 5

(r. 69)

SPECIAL STORAGE PERMIT

Name

Address

is hereby authorized to store the following explosives:—

Class	Description	Amount
.....
.....
.....
.....
.....
.....
.....

subject to the following conditions:—

- (1)
-
-
-
-
-
- (2)
- (3)
- (4)
- (5)

Issued at on the, 20

Inspector of Explosives

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 6

(r. 71, s. 8)

DEALER'S LICENCE

Dealer's Licence No.

Licence to sell, deal in, and dispose of explosives, subject to the provisions of the Explosives Act and Rules made there under, and the conditions on the back hereof or attached hereto.

Name of licensee	Place of business of licensee and postal address	Description of the kind or kinds of explosives hereby licensed to be sold, dealt in or disposed of	Maximum quantity of explosives of each kind hereby licensed premises at any time for the purpose of sale or dealing

Issued at on the Date of expiry of Licence—December 31st, 20

....., 20

.....
Inspector of Explosives

Explosives

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 7

(r. 72)

PERMIT TO PURCHASE BLASTING EXPLOSIVES

Permission is hereby granted to of to purchase the under mentioned explosives on or between the following date to only on behalf of of

*For immediate use.

*For storage use.

Magazine No. at

Table with 2 columns: Total amounts authorized, Amounts ISSUED by Dealers and date thereof (to be filled in by Dealers in Explosives)

Date

Table with 5 columns: (1), (2), (3), (4), (5) listing explosive types like Gelignite, Dynagel, Freflo, Gunpowder, Detonators, etc.

The sum of the amounts stated in columns 2, 3, 4 and 5 shall not exceed the total stated in column 1.

Mode of Transport Road/Rail Transport No.

Vehicle Reg. No. via Route

Issued at on the, 20

Inspector of Explosives

* Delete where not applicable.

N.B.—Duplicate copy to be returned to the issuing office when completed or to the Chief Inspector of Explosives, Mines and Geological Department, P.O. Box 30008, Nairobi.

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 8

(r. 83, s. 11)

PERMIT TO USE BLASTING MATERIALS

THIS PERMIT EXPIRES ON THE.....

Mr.
of is hereby permitted to use blasting
materials under section 11 (1)(b) of the Explosives Act.

Date, 20

.....
Signature of Holder

.....
Inspector of Explosives

FORM No. 9

(r. 85)

BLASTER'S DAILY RECORD

DETAILS OF EXPLOSIVES USED

(All entries must be signed daily by the blaster)

Date	Type	Size	Amount	Description of work place, No. of holes, depth, etc.	Misfires

Explosives

[Subsidiary]

SECOND SCHEDULE
[Rule 37, L.N. 271/1969, 1st Sch.]

STORAGE OF BLASTING EXPLOSIVES—LICENCE FEES

	<i>Sh.</i>
1. Issue or renewal of licence to store 500 kg. or over—per year or part thereof.	100
2. Issue or renewal of licence to store more than 25 kg. but less than 500 kg. year or part thereof	50
3. Issue or renewal of licence to store up to 25 kg.—per year or part thereof	25
4. Transfer of a licence	20

EXPLOSIVES (FIREWORKS) RULES, 1962

ARRANGEMENT OF RULES

Rule

1. Citation.
2. Interpretation.
3. Packing for firework composition.
4. Packing for manufactured fireworks.
5. Fireworks to be marked.
6. Importer's licence.
7. Import and export permits.
8. Public fireworks display.
9. Power to require records to be kept.
10. Conveyance of fireworks.
11. Dealer's licence.
12. Dealer's obligations.
13. Storage of fireworks.
14. Sale of fireworks to young children prohibited.
15. Dangerous fireworks.
16. Breakdown of fireworks without consent prohibited.
17. Accidents to be reported.
18. Penalty.

SCHEDULES

- FIRST SCHEDULE – PERMITTED UNLABELLED FIREWORKS
SECOND SCHEDULE – FORMS
THIRD SCHEDULE – DANGEROUS FIREWORKS
-

[Subsidiary]

EXPLOSIVES (FIREWORKS) RULES, 1962

[L.N. 322/1962, L.N. 272/1969.]

1. Citation

These Rules may be cited as the Explosives (Fireworks) Rules, 1962.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**chief inspector**” means the chief inspector of explosives appointed under section 3(1) of the Act;

“**class**” and “**division**”, in relation to explosives, have the same meaning as in the Explosives (Blasting Explosives) Rules;

“**firework composition**” means any chemical compound or mechanically mixed preparation of an explosive of an inflammable nature which is used for the purpose of making manufactured fireworks and is not included in the Classes of Explosives I to VI inclusive as defined by rule 3 of the Explosives (Blasting Explosives) Rules, and also any star and any coloured fire composition, subject to the proviso in the definition of manufactured fireworks;

“**fireworks**” means explosives in the form of firework composition or manufactured fireworks;

“**licensed importer**” means the holder of a valid importer’s licence issued under rule 6;

“**manufactured fireworks**” means any authorized explosive and any firework composition when such explosive or composition is enclosed in any case or contrivance, or is otherwise manufactured so as to form a squib, cracker, serpent, rocket (including rockets to produce rain), maroon, lance, wheel, Chinese fire, Roman candle, coloured flare or other article specially adapted for the production of pyrotechnic, smoke or sound effects, or signals:

Provided that a substantially constructed and hermetically sealed metal case, containing not more than 0.5 kilograms of coloured firework composition, of such nature as not to be liable to spontaneous ignition, shall be deemed to be “manufactured fireworks”;

“**substantial case**” means a case of such strength, construction and character that it will not be broken or accidentally opened, or become defective or insecure, whilst being conveyed and will not allow the firework composition to escape.

[L.N. 272/1969, Sch.]

3. Packing for firework composition

(1) Firework composition shall, for the purpose of transportation, be contained in a double package, the inner of which shall be a hermetically sealed receptacle containing not more than 0.5 kilograms of explosives, and of which the outer package shall be a substantial case containing not more than 10 kilograms of explosives.

(2) Any person who transports firework composition which is not packed in conformity with the requirements of this rule shall be guilty of an offence.

[L.N. 272/1969, Sch.]

4. Packing for manufactured fireworks

(1) Manufactured fireworks in quantities less than 2.5 kilograms net weight shall, for the purpose of transportation, be contained in properly wrapped and secured packages or containers.

(2) Manufactured fireworks in quantities in excess of 2.5 kilograms net weight shall, for the purpose of transportation, be contained in substantial cases, and the net weight of fireworks in any single container or case shall not exceed 50 kilograms

(3) Any person who transports manufactured fireworks which are not packed in conformity with the requirements of this rule shall be guilty of an offence.

[L.N. 272/1969, Sch.]

5. Fireworks to be marked

(1) No fireworks shall be imported unless each firework bears conspicuously the name or trademark of the occupier and the address of the factory in which it was made, and adequate instructions in English for the use of the firework.

(2) The provisions of subrule (1) shall not apply to—

- (a) fireworks weighing less than 3.5 grams. each; or
- (b) fireworks specified in the First Schedule; or
- (c) fireworks exempted from this rule by the chief inspector by notice in the *Gazette*,

if such fireworks and every container in which they are consigned, including both the containers in which they are sold to the public and containers for consignment in bulk, bear conspicuously the word "Fireworks" and the name of the occupier of the factory of manufacture and the address of that factory.

(3) Any person who, in the course of trade or business, sells any fireworks on which any name and address or instructions for use have been removed, obliterated or altered shall be guilty of an offence.

[L.N. 272/1969, Sch.]

6. Importer's licence

(1) Every application for an importer's licence shall be made in duplicate in Form No. 1 in the Second Schedule, and shall be accompanied by a fee of five hundred shillings:

Provided that no such fee shall be payable in respect of fireworks required to be used or carried by law.

(2) Upon receipt of such an application and the fee and such other details as he may require, the chief inspector may, in his discretion, issue an importer's licence in Form No. 2 in the Second Schedule, subject to such conditions as he thinks fit:

Provided that any person aggrieved by the chief inspector's refusal to issue an importer's licence may, within fourteen days of being notified of such refusal, appeal in writing to the Minister against such refusal, and the Minister's determination thereon shall be final and shall not be questioned in any court.

(3) Every importer's licence shall be valid from the day of issue and shall expire on the thirty-first day of December following the date of issue.

(4) Any importer who contravenes or fails to comply with any of the terms and conditions of his licence shall be guilty of an offence.

[Subsidiary]

7. Import and export permits

(1) Subject to this rule, an inspector or other person authorized by the Commissioner may, in his discretion, issue, in Form No. 3 in the Second Schedule to these Rules, a permit to import or export fireworks under section 10 of the Act, subject to such terms and conditions as he thinks fit.

(2) Every application for such a permit shall be made in quintuplicate to an inspector or other authorized person, and shall contain the description, details, quantity and type of fireworks to be imported, the name and address of the manufacturer, the source of supply in the case of importation and the destination in the case of export.

(3) An inspector or other authorized person may demand such further details and such samples for the purpose of examination as he may deem necessary, and he may in his discretion refuse to consider any application where such details or samples are not furnished.

(4) Permits to import fireworks shall be issued only to licensed importers.

(5) No permit shall authorize the importation of any fireworks specified in the Third Schedule unless the importation thereof is specifically and by name authorized therein under the hand of the chief inspector, and any fireworks specified in the said Third Schedule which are imported without the authorisation of the chief inspector as aforesaid shall be deemed to have been imported without an import permit.

(6) Any person who contravenes or fails to comply with any of the terms and conditions of a permit shall be guilty of an offence.

8. Public fireworks display

(1) No person shall hold a public fireworks display without the written consent of an inspector.

(2) Notwithstanding rule 6, where an inspector has consented to the holding of any public fireworks display, he may, on payment of a fee of fifty shillings, issue to the person authorized to hold the display a special import permit for the importation of the fireworks required for the display.

(3) Where any person is aggrieved by an inspector's refusal to consent to the holding of a public fireworks display or by the refusal to issue a special import permit, he may, within fourteen days of being notified of such refusal, appeal in writing to the Minister against such refusal, and the Minister's determination thereon shall be final and shall not be questioned in any court.

(4) No special import permit shall authorize the importation of any fireworks specified in the Third Schedule unless the importation thereof is specifically and by name authorized therein under the hand of the chief inspector, and any fireworks specified in the Third Schedule which are imported without the authorisation of the chief inspector as aforesaid shall be deemed to have been imported without an import permit.

(5) Any person who holds a public fireworks display without the consent of an inspector shall be guilty of an offence.

9. Power to require records to be kept

(1) A licenced importer shall, if so required in writing by the chief inspector, keep adequate records in English, to the satisfaction of an inspector, of all purchases, distribution, storage and sale of fireworks imported by him, and showing the names and addresses of all persons from whom he has received or to whom he has transferred or otherwise disposed of fireworks.

[Subsidiary]

(2) If an inspector at any time considers the maintenance of records so required to be inadequate, he may after warning the importer in writing to this effect report the matter to the chief inspector; and upon receipt of such report the chief inspector may, if he is satisfied that the records are inadequate or do not properly reveal the details and transactions of the importer, cancel the importer's licence.

10. Conveyance of fireworks

(1) Manufactured fireworks in quantities of not more than 2.5 kilograms net weight may be conveyed in a carriage or boat in which passengers are carried, provided all reasonable precautions are taken for the prevention of fire or explosion.

(2) Any person who fails to take such reasonable precautions in conveying manufactured fireworks under subrule (1) shall be guilty of an offence.

(3) For the purposes of transporting fireworks composition, Part VI of the Explosives (Blasting Explosives) Rules shall apply as if the fireworks composition were blasting explosives within the meaning of those Rules.

[L.N. 272/1969, Sch.]

11. Dealer's licence

(1) Every application for a dealer's licence shall be in Form No. 4 in the Second Schedule.

(2) Upon receipt of such an application and a fee of fifty shillings and such other details as he may require, an inspector may in his discretion issue, subject to such terms and conditions as he thinks fit, a dealer's licence in Form No. 5 in the Second Schedule:

Provided that any applicant who is aggrieved by the inspector's refusal to issue a dealer's licence may, within fourteen days of being notified of such refusal, appeal in writing to the Minister against such refusal, and the Minister's determination thereon shall be final and shall not be questioned in any court.

(3) Any dealer who contravenes or fails to comply with any of the terms and conditions of his licence shall be guilty of an offence.

12. Dealer's obligations

(1) Every dealer in fireworks shall—

- (a) register his name and the address of his business premises or shop with the local authority and the police officer in charge of the district in which the premises are located, and shall sell or deal in fireworks only in such premises;
- (b) affix to the outside of the premises or shop a conspicuous notice board not less than 30 centimetres by 60 centimetre with the words "DEALER IN FIREWORKS" painted in 5 centimetre white letters on a red background;
- (c) display the relative licence in a prominent position in the premises or shop;
- (d) report immediately any theft or loss of fireworks under his control to the nearest police station.

(2) Any person who contravenes this rule shall be guilty of an offence.

[L.N. 272/1969, Sch.]

13. Storage of fireworks

(1) The following conditions shall be observed with regard to the storage of fireworks—

- (a) in any shop owned or operated by the holder of a valid importer's or dealer's licence manufactured fireworks may be stored up to a limit of 50 kilograms

[Subsidiary]

net weight in drawers, glass-fronted show-cases or on glass-covered shelves without electric fittings, provided the drawers, cases and shelves are kept clean and closed (but need not be locked) and the fireworks are not kept or stored with foodstuffs;

- (b) in storage premises adjacent to the shop, manufactured fireworks may be stored in quantities up to 100 kilograms gross weight either in substantial receptacles of a type approved by an inspector or contained in their original unopened cases as packed by the manufacturer;
- (c) manufactured fireworks in quantities exceeding 100 kilograms gross weight and up to such a maximum as an inspector may decide, having regard to the location of the storage, shall be stored in a fireproof room, ventilated by means other than by windows, and having a steel-plated lockable door marked conspicuously on the outside with the words "FIREWORKS STORE—NO SMOKING";
- (d) firework composition shall only be stored in a building attached to a licensed factory with the written approval of an inspector and subject to such terms and conditions as he shall specify;
- (e) any article or substance of a highly inflammable nature or any article liable to cause fire or explosion shall be kept at a safe distance from any firework and from any building or receptacle containing fireworks; Bengal matches and matches other than safety matches shall not be stored with fireworks;
- (f) fireworks shall not be stored with explosives of any other class:

Provided that Class VII explosives may be kept with each other without any intervening partition in the same store.

- (2) Any person who contravenes this rule shall be guilty of an offence.

[L.N. 272/1969, Sch.]

14. Sale of fireworks to young children prohibited

Any person who sells fireworks to any child who appears to be under 13 years of age shall be guilty of an offence under these Rules.

15. Dangerous fireworks

(1) When an inspector finds any fireworks which he has reason to believe may be dangerous to public security or to the safety of any person, he may take such number and quantity of them as he considers necessary for the purposes of test or analysis and may, by notice in writing, require the occupier of the premises upon which the fireworks were found to retain custody of the remainder of such fireworks in his premises for a specified period not exceeding three weeks and to take specified steps to ensure that they are not sold, moved or tampered with during that period.

(2) Where an inspector does not act under section 26(1) of the Act, he shall return all fireworks taken under subrule (1) of this rule unless in his opinion they are of no value after examination and testing.

(3) If the occupier of the premises contravenes or fails to comply with any of the terms and conditions of a notice served on him under subrule (1) he shall be guilty of an offence.

16. Breakdown of fireworks without consent prohibited

Any person who breaks down manufactured fireworks for the extraction of the explosive therein contained, or who uses fireworks for any purpose other than that for which they were designed, without the written consent of the chief inspector shall be guilty of an offence.

17. Accidents to be reported

(1) Any accident resulting in death or serious injury to any person, or in damage to property, by fire or explosion caused by or connected with fireworks shall be reported forthwith to the nearest police station, and the officer in charge of such police station shall thereupon report the accident to an inspector.

(2) Any person responsible for such an accident who fails forthwith to report the same to the nearest police station shall be guilty of an offence.

18. Penalty

Any person who is guilty of an offence under these Rules shall be liable to a fine not exceeding five hundred shillings or, in default of payment, to imprisonment for a term not exceeding two months.

FIRST SCHEDULE

[Rule 5(2)(b).]

PERMITTED UNLABELLED FIREWORKS

- 1. Aluminium or Magnesium Torches ("Sparklers").
- 2. Jumping crackers.
- 3. Tom Thumbs.

SECOND SCHEDULE

FORM No. 1

(r. 6(1))

[L.N. 272/1969, Sch.]

APPLICATION FOR FIREWORKS IMPORTER'S LICENCE

- 1. Name of applicant
- 2. Location of business premises, plot number, road and district
- 3. Postal address
- 4. Nature of business
(state whether wholesale or retail or both)
- 5. (1) Location of bulk storage
- (2) Location of wholesale storage
- (3) Location of retail premises
- 6. Maximum quantity in kg. (gross) for which storage is required
- 7. Are any inflammable goods to be stored in the same premises?
- If so, state types of such goods

Explosives

[Subsidiary]

SECOND SCHEDULE—continued

8. Do bulk storage conditions comply with rule 13(1)(c) of the Explosives (Fireworks) Rules?

.....

9. Give details of proposed storage buildings:—

	<i>Bulk</i>	<i>Wholesale</i>	<i>Retail</i>
Floor
Ceiling
Walls
<i>(stone, brick, wood, corrugated iron, etc.)</i>			

10. What are the dimensions of storage chamber in feet:—

	<i>Bulk</i>	<i>Wholesale</i>
Length
Width
Height/ceiling

I/We certify that the above particulars are correct.

Date, 20

.....
Signature of Applicant

FORM No. 2

(r. 6(2))

FIREWORKS IMPORTER'S LICENCE

Importer's Licence Number of 20

of

is hereby licenced to import and deal in fireworks during the year 20

Storage of fireworks in conformity with rule 13 is permitted at the following premises subject to the maximum limits shown.

- Bulk storage (limit kg.) at
-
- Wholesale storage (limit kg.) at
-
- Dealer's storage (limit 100 kg.) at
-
-

Issued at on the 20

.....
Inspector of Explosives

FORM No. 3

(r. 7(1))

SECOND SCHEDULE—continued

PERMIT TO IMPORT OR EXPORT FIREWORKS

Permit issued under section 10 of the Explosives Act to import into export from KENYA the following quantities of explosives other than blasting materials.

Description of explosives	Quantity of explosives	Part of entry or exit	Marks on cases of explosives	Means of conveyance to or from port of entry or exit of the explosives (i.e. vessel, stating name, train, road, vehicle, etc.)

I hereby authorize of to import into Kenya explosives other than blasting materials in accordance with the above particulars and subject to the provisions of the Explosives Act and the Rules thereunder. This permit shall be valid for days from the date hereof and shall be surrendered to a Customs Officer for cancellation on import or export of the explosives.

Issued at on the 20
.....
(Inspector of Explosives)

NOTE: This Permit does not authorize the import of dangerous fireworks specified in the Third Schedule to the Explosives (Fireworks) Rules unless the form of authorization overleaf is completed and signed by the Chief Inspector of Explosives.

[Subsidiary]

[BACK]

SECOND SCHEDULE, FORM 3—continued
PERMIT TO IMPORT OR EXPORT FIREWORKS

I Chief Inspector of Explosives, hereby authorize the holder of this permit to import the following fireworks specified in the Third Schedule to the Explosives (Fireworks) Rules—

- 1. Quantity, name and description
- 2. Quantity, name and description
- 3. Quantity, name and description

.....
Chief Inspector of Explosives

SECOND SCHEDULE—continued

FORM No. 4

(r. 11(1))

APPLICATION FOR FIREWORKS DEALER'S LICENCE

- 1. Name of applicant
- 2. Business name and address
- 3. Situation of premises or shop where fireworks will be stored and retailed.
 - (a) Town
 - (b) Street
 - (c) Location
- 4. Details of construction of premises or shop.
 - (a) Walls
 - (b) Floor
 - (c) Roof
- 5. What inflammable goods or liquids are stored at the premises or shop?
- 6. What is the maximum weight of fireworks you wish to store?
- 7. Do you wish to store fireworks in premises adjacent to the business premises or shop?
- If so, give details of such premises (site, condition, etc.).
- 8. Do you wish to store fireworks in a separate fireworks store?
- If so, give details of such store (site, condition, etc.).

I/We certify that the above particulars are correct, and that I/we am/are conversant with the requirements of the Explosives (Fireworks) Rules.

Signature of Applicant

Date, 20

Applicant should study rule 13 of the Explosives (Fireworks) Rules before completing this form.

FORM No. 5

(r. 11(2))

FIREWORKS DEALER'S LICENCE

Dealer's Licence Number of 20

is hereby licensed to deal in fireworks at—

(Address)

Explosives

[Subsidiary]

SECOND SCHEDULE, FORM No. 5—continued

In addition, the storage of manufactured fireworks is permitted, at the premises, in the quantities and subject to the terms and conditions set out below:—

.....
.....
.....
.....
.....
.....
.....
.....

Issued at on the, 20

.....
Inspector of Explosives

THIRD SCHEDULE
[Rule 7(5) and 8(4).]

DANGEROUS FIREWORKS

1. Fireworks containing an admixture of phosphorus (whether or not in the amorphous form) with chlorate of potassium or other chlorate.
2. Fireworks which contain an admixture of sulphur with chlorate of potassium or other chlorate.