

THE GUNPOWDER AND EXPLOSIVES ACT

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THE GUNPOWDER AND EXPLOSIVES ACT

Cap. 142.
Acts
1 of 1967,
12 of 1985
Sch.

[13th January, 1925.]

1. This Act may be cited as the Gunpowder and Explosives Act. Short title.

2.—(1) In this Act— Interpreta-
tion.

“gunpowder” means any of the substances specified from time to time in Part I of the First Schedule; First
Schedule.

“dangerous explosive” means any of the substances specified from time to time in Part II of the First Schedule.

(2) The Minister may, for the purposes of this Act, from time to time by order published in the *Gazette* vary or amend Part I or Part II of the First Schedule. 1/1967
S. 53
3rd Sch.

Vessels Arriving With Gunpowder

3. If the master of any ship, drogher, or other vessel arriving in any of the ports of this Island, having gunpowder or any dangerous explosive on board, shall, under any pretence whatever, land, or permit to be landed, any such gunpowder or dangerous explosive without a licence for that purpose first obtained under the hand of an officer of Customs at the port of entry, which licence such officer is hereby authorized to grant, he shall be liable to a penalty of two hundred dollars; and the said officer of Customs is hereby required to direct the gunpowder or dangerous explosive, when so landed, to be lodged in the fort or magazine nearest to such port where such ship, drogher, or vessel shall arrive, or in some proper place of security, which has been approved by the Minister: Penalty on
master of
ship landing
gunpowder
or dangerous
explosives
without a
licence.

12/1985
Sch.

Provided that the Chief Officer of Customs at a port of entry, may allow, under proper regulations to be approved by the Commissioner of Customs and Excise, the landing of small quantities of fireworks, lucifer matches and other combustible or explosive materials, at the usual place appointed for the landing of goods.

Licences to deal in Gunpowder

Penalty for dealing, etc., in gunpowder without a licence.

Second Schedule, Form A.

Jurisdiction of Resident Magistrate to grant licence.

Mode of application for licence.

4. No person within this Island shall deal in, sell, or barter, by himself, or any servant, or agent, under any pretext, or by any means whatsoever, under a penalty not exceeding two hundred dollars for each offence, any gunpowder, before such person shall have first obtained a licence for that purpose, according to Form A in the Second Schedule.

5. The Resident Magistrate exercising jurisdiction where the application may be made, is authorized to grant licences to deal in and to sell gunpowder, by wholesale or retail, at a place within the parish to be named in such licence. He may in his discretion refuse to grant such licence.

6. All applications for such licences shall be made in writing and lodged with the Clerk of the Courts for the parish in which the same are applied for, at least five days previous to the day fixed for holding the Resident Magistrate's Court, at which such applications are to be made; every person applying for a licence shall pay to the Collector of Taxes the amount by this Act fixed to be paid for duty in respect of such licence, and every application for a licence shall be accompanied by the receipt of the Collector of Taxes for the amount of duty paid to him, and no application shall be entertained which shall not be accompanied by such receipt.

7. The Clerk of the Courts shall not, under a penalty of sixty dollars, deliver any licence under this Act to any person, until his application shall have been granted by the Resident Magistrate, nor until such person shall have become bound to Her Majesty, her heirs and successors, in a bond according to Form B in the Second Schedule, with one sufficient surety, to be approved of by the Resident Magistrate, in the sum of two hundred dollars.

Duty of Clerk of the Courts.

Second Schedule, Form B.

8. Every licence granted under this Part, shall be made out and signed by the Clerk of the Courts, and in addition to the sum of two dollars payable to the Collector of Taxes of the parish in respect of such licence, there shall be paid to the Clerk of the Courts, on his making out such licence, the stamp duty thereon.

Licence and fees therefor.

9. It shall be the duty of the Clerk of the Courts to transmit to the Commissioner of Customs and Excise, within ten days after the Resident Magistrate shall have granted a licence under this Act, a return showing the licence granted, together with the name of the person to whom the same has been granted, and the place of business in respect of which such licence has been granted. He shall also within the like period transmit another copy of the said return to the Minister for publication in the *Gazette*. The said Clerk shall also keep a book in which he shall enter all bonds and licences under this Act, and shall cause a list of all licences to be hung up in his office. If he shall fail to perform any of the duties imposed upon him by this section he shall be liable to a penalty not exceeding forty dollars.

Duties of Clerk after grant of licence. 12/1985 Sch.

10. In addition to the licences to deal in gunpowder it shall be lawful for the Resident Magistrate in his discretion, to grant to any person applying for the same, a licence to have in his possession, and not for sale, at a place or places to be named in such licence, and within the parish

Resident Magistrate to grant licence for possession of gunpowder in excess of twenty-five pounds.

in which the same is granted, a quantity of gunpowder in excess of twenty-five pounds; such application shall be made in the same manner, and subject to the same conditions, and shall, if granted, be on the same terms, as a licence to deal in and dispose of gunpowder, save and except that such licence shall not be liable to stamp duty :

Provided that such licence shall name the place or places within the parish where such gunpowder is to be stored, and shall fix a limit to the quantity to be kept and stored at any one place.

Period for which licence in force.

11. Every licence granted under this Part shall continue in force from the period of granting the same until the fifth day of April next succeeding :

Provided, that if the same shall be granted after the fifth day of October in any year, half the duty shall be payable in respect thereof.

Storage and Packing of Gunpowder

Places where gunpowder may be kept.

12. Gunpowder shall not be kept at any place except as follows, that is to say—

- (1) at a fort, magazine, or other proper place of security, approved by the Minister under the provisions of this Act;
- (2) in the premises of a person duly licensed under this Act to deal in and dispose of gunpowder, and then only to the extent of fifty pounds of gunpowder or at the place or places named in any licence granted to any person to have gunpowder in his possession and not for sale in excess of twenty-five pounds, and in such cases only to the extent limited by the said licence :

Provided that this section shall not apply—

- (a) to a person keeping for his private use and not for sale gunpowder to an amount not exceeding, on the same premises, twenty-five pounds; or
- (b) to the keeping of any gunpowder by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act with respect to the conveyance of gunpowder.

Any gunpowder kept otherwise than as above in this section mentioned, shall be deemed to be kept and deposited in an improper place, or in a quantity contrary to the meaning of this Act.

Packing Gunpowder for Conveyance

13. The following general rules shall be observed with respect to the packing of gunpowder for conveyance—

- (1) the gunpowder, if not exceeding five pounds in weight, shall be contained in a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the gunpowder from escaping; and
- (2) the gunpowder, if exceeding five pounds in weight, shall be contained, either in a single package, or a double package. A single package shall be a box, barrel or 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 gunpowder to escape. If the gunpowder is packed in a double package, the inner package shall be a substantial case, bag, canister, or other receptacle, made and closed so as to prevent the

Rules regulating the packing of gunpowder for conveyance.

gunpowder from escaping, and the outer package shall be a box, barrel, or case of wood or metal or other solid material, and shall be of such strength, construction and character, that will not be broken or accidentally opened, or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape; and

- (3) every package, whether single or double, when actually used for the package of gunpowder, shall not be used for any other purpose; and
- (4) there shall not be any iron or steel in the construction of any such single package, or inner or outer package, unless the same is effectually covered with tin, zinc, or other material; and
- (5) the amount of gunpowder in any single package, or if there is a double package, in any one outer package, shall not exceed one hundred pounds; and
- (6) on the outermost package there shall be affixed the word "gunpowder" in conspicuous characters by means of a brand or securely attached label, or other mark.

In the event of any breach (by any act or default) of any general rule in this section, the gunpowder in respect of which the breach is committed may be forfeited, and the person guilty of such breach shall be liable to a penalty not exceeding forty dollars.

Dangerous Explosives

14. It shall not be lawful for any person to have in his possession any dangerous explosive, without a licence under the hand of the Minister, or, in the case of the parish of Kingston of the Mayor of the Kingston and St. Andrew Corporation, or of the Custos of any other parish in which the same is kept. Such licence when granted shall be without fee or reward, and shall not be subject to any duty.

Unlawful for any person to have in his possession any dangerous explosives without a licence.

15. Any such licence as last aforesaid shall name the place or places where such dangerous explosive shall be kept, and shall limit the quantity to be kept or stored in any one of such places at any one time, and shall provide that such place or places shall at all times be kept securely locked, except at such times as may be necessary for dealing with the dangerous explosive, and shall name the person or persons to be entrusted with the keys of such place or places, and with the superintendence of the use from time to time of such dangerous explosive.

What shall be stated in licence in respect to a dangerous explosive.

16. Any such licence as last aforesaid shall be liable to be at any time cancelled and revoked by order of the Minister, and such cancellation and revocation shall be published in the *Gazette* and shall take effect from such publication.

Any licence liable to be revoked by order of the Minister.

17. It shall not be lawful for any person, other than a person licensed under this Part, to have dangerous explosives in his possession, or to import any dangerous explosive; and any such dangerous explosive consigned to any person, other than some one licensed as aforesaid, shall be deemed to be prohibited goods within the meaning of the Customs Act. The Collector, or other officer of Customs at the port of importation, shall not allow any such explosive consigned to any such person as aforesaid, to be landed,

Unlawful for any person unless licensed to have in his possession or to import any dangerous explosive.

or removed from the ship importing the same, unless proper arrangements are made, to his satisfaction, for the conveyance of such dangerous explosive to a place named in the licence of the person importing the same as a place where the same is allowed to be kept:

Provided always that the person importing any dangerous explosive may lodge the same in such fort or magazine, or other place of security as may be approved of by the Minister as a place for the reception of the same, and on such terms as may from time to time be approved by the Minister.

Power of
Justices to
issue search
warrant,
etc.

18. When any Justice shall receive information on oath that any gunpowder, or dangerous explosive is deposited, or suspected to be deposited, in any ship, vessel, house, store, or place, or is in the possession of any person contrary to the provisions of this Act, he shall forthwith issue his warrant to cause search to be made in the suspected ship, vessel, house, store or other place, or to cause such person as aforesaid to be arrested and searched, as the case may be, and if any gunpowder or dangerous explosive shall be found in such ship, vessel, house, store or place, or on such person contrary to the provisions of this Act, and whether such warrant has been granted or not, such gunpowder, firearm, or dangerous explosive shall be forfeited, and the master of the ship, or vessel, or the occupier of any house, premises, or place, in which such gunpowder, firearm or dangerous explosive shall be found, and any person found in possession of, or using any such gunpowder, firearm, or dangerous explosive, contrary to the provisions of this Act, shall on conviction thereof in a summary manner, forfeit and pay a sum not exceeding two hundred dollars, or he may, in the discretion of the court, be imprisoned for a term not exceeding twelve calendar months, with or without hard labour.

Evasions of this Act

19. Any person allowing any licence issued to him under this Act to be used by any other person, in contravention of this Act, shall be liable to a penalty not exceeding twenty dollars, or less than four dollars; and any person using such licence as aforesaid, shall be liable to a like penalty.

Penalty for unlawful use of licence.

Exemptions

20. Nothing in this Act shall be deemed to apply to any person employed in the Military or Naval, or Air Service of Her Majesty, or in the Government of Jamaica, having in his possession, or using in the Service of Her said Majesty, any gunpowder, or dangerous explosive; and it shall be lawful for the Minister, if he shall think fit, notwithstanding anything herein contained, to entrust any person with gunpowder or dangerous explosives for public or other purposes.

Exemption of Naval, Military or Air Service and Government of Jamaica from Act.

Power to Frame Rules

21. The Minister may, with the advice and consent of the House of Representatives prescribe, and from time to time alter or amend, all forms, including those in the Second Schedule, which shall be required for the purposes of this Act, and may also frame all necessary rules, and from time to time rescind, alter, or amend the same, for more fully and effectually carrying out the provisions thereof.

Rules and forms.

Second Schedule.

Miscellaneous

22.—(1) No gunpowder shall be sold by retail to any person, unless at the time of sale such person produces a licence then in force, or gives reasonable proof that he is a person entitled to keep, carry, or use a firearm without

Requirements on sales by retail.

licence, and the Minister may make regulations for the purposes of this section.

(2) Every person who sells by retail any gunpowder shall, before delivery, make or cause to be made, an entry in a book to be kept for that purpose specifying the nature and quantity of the gunpowder sold, the date of such sale, the name and address of the purchaser, the office from which the licence produced by the purchaser was issued, the number and date of such licence, or the circumstances exempting such purchaser from having such licence. Such book shall be produced for inspection on the request of any officer of the Jamaica Constabulary Force.

Penalty for failure to comply with this section.

(3) Any person who contravenes or fails to comply with any of the foregoing provisions of this section, or of any regulations made under this section by the Minister, or on the sale or purchase of any gunpowder knowingly makes, or causes to be made any false entry or statements as to any matter concerning which he is required by this section to make any entry or statement, shall be guilty of an offence against this Act, and shall be liable on summary conviction to a fine not exceeding one hundred dollars, and in default of payment to imprisonment with or without hard labour for a term not exceeding three months, and on a further conviction for a second or subsequent offence he shall be liable in the discretion of the Court to be imprisoned for a term not exceeding six months with or without hard labour in lieu of the fine to which he is liable.

Penalties

Penalty for offence where no penalty provided.

23. If any person shall be guilty of an offence against any of the provisions of this Act, or against any rule framed under its authority, for which no penalty is provided, he shall be liable to a penalty not exceeding forty dollars, and in default of payment to be imprisoned

with or without hard labour, for a term not exceeding six months.

24. All penalties under this Act, the recovery whereof is not otherwise provided for, may be recovered in a summary manner in the parish in which the offence is committed; and in any case where any penalty is imposed the Court may award such portion to the informer, not exceeding one-half, as in its discretion it may think proper.

Recovery of penalties.

Section 2

FIRST SCHEDULE

PART I

Powder commonly known as gunpowder or blasting powder

Percussion caps

Cartridges adapted for use in connection with guns, rifles, revolvers, pistols.

PART II

Dynamite, Nitro-glycerine or other substances not included in Part I. Petroleum giving off an inflammable vapour at a temperature lower than ninety-five degrees Fahrenheit, and imported into the Island otherwise than in accordance with the Petroleum and Oil Fuel (Landing and Storage) Act.

SECOND SCHEDULE

Section 4

(A.—FORM OF LICENCE TO DEAL IN GUNPOWDER)

At a Resident Magistrate's Court, held at _____, in the parish of _____, on the _____ day of 19____, A.B., of the said parish residing at _____ having been approved by C.D., Resident Magistrate, as a dealer in gunpowder in such parish, and having duly entered into bond, and paid the tax required by law: These are to license the said _____ to deal in and dispose of gunpowder, according to the provisions of the Gunpowder and Explosives Act, from the _____ day of _____ one thousand nine hundred and _____

Dated this _____ day of _____ 19____.

Clerk of the Courts.

Section 7

(B.—FORM OF BOND TO BE ENTERED INTO BY A DEALER IN GUNPOWDER UNDER THIS ACT)

KNOW ALL MEN BY THESE PRESENTS, that we _____ of the parish of _____ dealer in gunpowder, and _____ of the parish of _____

are jointly and severally held and firmly bound unto Our Sovereign Lady the Queen her heirs and successors, in the sum of two hundred dollars, lawful money of Jamaica to be paid to our Sovereign Lady the Queen her heirs and successors, to which payment, well and truly to

be made and done, we bind ourselves, and each of us, and the heirs, executors and administrators of us, and each of us, jointly and severally, firmly by these presents.

Sealed with our seals, and dated the _____ day of _____ one thousand nine hundred and _____

Whereas at a Resident Magistrate's Court, held at _____ in the parish of _____ aforesaid on the _____ day of _____ one thousand nine hundred and _____ last, the above bounden _____ was approved of as a dealer in gunpowder from the _____ day of _____ 19 _____ until the _____ day of _____ next ensuing and the above bounden _____ was also approved of as the surety of the said _____

Now the condition of the above bond is such, that if the above named _____ his executors or administrators do and shall in all things conform to all and every the provisions, clauses, articles, matters and things mentioned and contained in the Gunpowder and Explosives Act, then the above obligation shall be void and of none effect.

(Seal)

(Seal)

Sealed and delivered in the presence of _____