

CHAPTER 216
EXPLOSIVE SUBSTANCES (ILLEGAL USE AND POSSESSION)

ARRANGEMENT OF SECTIONS

SECTION

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CHAPTER 216

**EXPLOSIVE SUBSTANCES (ILLEGAL USE AND
POSSESSION)**

**An Act to regulate the making, possession and use of
explosive substances, and for other purposes.**

3 cf 1958

28 cf 1963

43 cf 1964

E L A O, 1974

[Commencement 5th May, 1958]

1. This Act may be cited as the Explosive Substances
(Illegal Use and Possession) Act.

Short title.

2. In this Act, unless the context otherwise requires —

Interpretation.

“explosive substance” shall be deemed to include any
materials for making any explosive substances;
also any apparatus for making any explosive
substance; also any apparatus, machine, imple-
ment, or materials used, or intended to be used, or
adapted for causing, or aiding in causing, any
explosion in or with any explosive substance; also
any part of any such apparatus, machine or
implement.

3. Any person who unlawfully and maliciously
causes by any explosive substance an explosion of a nature
likely to endanger life or to cause serious injury to property
shall, whether any injury to person or property has been
actually caused or not, be guilty of an offence and shall be
liable, on conviction thereof by the Supreme Court upon trial
upon information, to imprisonment for life.

Causing
explosion likely
to endanger life
or property.

4. Any person who unlawfully and maliciously —

Attempt to cause
explosion, or
making or
keeping
explosive with
intent to
endanger life or
property.

(a) does any act with intent to cause by an explosive
substance, or conspires to cause by an explosive
substance an explosion in The Bahamas of a
nature likely to endanger life or to cause serious
injury to property; or

(b) makes or has in his possession or under his
control any explosive substance with intent by
means thereof to endanger life, or cause serious

injury to property in The Bahamas, or to enable any other person by means thereof to endanger life or cause serious injury to property in The Bahamas,

shall, whether any explosion does or does not take place, and whether any injury to person or property has been actually caused or not, be guilty of an offence and shall be liable, on conviction thereof by the Supreme Court upon trial upon information, to imprisonment, for a term not exceeding twenty years, and the explosive substance shall be forfeited.

Making or possession of explosive under suspicious circumstances

5. Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall unless he can show that he made it or had it in his possession or under his control for a lawful object, be guilty of an offence and shall be liable, on conviction thereof by the Supreme Court upon trial upon information, to imprisonment for a term not exceeding fourteen years, and the explosive substance shall be forfeited.

Punishment of accessories

6. Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials, the providing of vehicles, ships or boats, or in any manner whatsoever procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be guilty of an offence and shall be liable to be tried upon information and punished for that offence as if he had been guilty as a principal.

Inquiry by Attorney-General and apprehension of absconding witnesses

7. (1) Where the Attorney-General has reasonable grounds to believe that any offence under this Act, or an offence under section 326 or section 327 of the Penal Code has been committed, he may order an inquiry under this section, and thereupon any magistrate or justice of the peace who is authorised in that behalf by the Attorney-General, may, although no person may be charged before him with the commission of such crime, sit at a magistrates court or police station in the island or district in which such magistrate or justice of the peace may then be, and examine on oath concerning such offence any witness appearing before him, and may take the deposition of such

witness, and, if he sees cause, may bind such witness by recognisance to appear and give evidence before a magistrate holding a preliminary inquiry under the provisions of the Criminal Procedure Code Act when called upon within three months from the date of such recognisance; and the law relating to the compelling of the attendance of a witness before a magistrate, and to a witness attending before a magistrate and required to give evidence concerning the matter of a charge or complaint, shall apply to compelling the attendance of a witness for examination and to a witness attending under this section.

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(2) A witness examined under this section shall not be excused from answering any question on the ground that the answer thereto may criminate, or tend to criminate, himself; but any statement made by any person in answer to any question put to him on any examination under this section shall not, except in the case of an information or other criminal proceeding for perjury, be admissible in evidence against him in any proceeding, civil or criminal.

(3) A magistrate or justice of the peace who conducts the examination under this section of a person concerning any crime shall not take part in the committing for trial of such person for such crime.

(4) Whenever any person is bound by recognisance to give evidence before a magistrate or the Supreme Court in respect of any crime under this Act, or under section 326 or section 327 of the Penal Code, any magistrate or justice of the peace if he sees fit, upon information being given in writing and on oath, that such person is about to abscond, or has absconded, may issue his warrant for the arrest of such person, and if such person is arrested, any magistrate or justice of the peace, upon being satisfied that the ends of justice would otherwise be defeated, may commit such person to prison until the time at which he is bound by such recognisance to give evidence, unless in the meantime he produces sufficient sureties:

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Provided that any person so arrested shall be supplied with a copy of the information upon which the warrant for his arrest was issued.

No prosecution
except by leave
of Attorney-
General.

8. (1) If any person is charged before a magistrate with any crime under this Act, no further proceeding shall be taken against such person without the consent of the Attorney-General, except such as the magistrate may think necessary by remand, or otherwise, to secure the safe custody of the person.

No person to be
punished twice
for the same
criminal act.

(2) This Act shall not exempt any person from any information or proceeding for a crime or offence which is punishable at common law, or by any Act other than this Act, but no person shall be punished twice for the same criminal act.

Search for and
seizure of
explosive
substance.

9. (1) Where any member of the police force of or above the rank of inspector (hereinafter in this section referred to as “the officer”) has reasonable cause to believe that any offence under this Act, or under section 326 or section 327 of the Penal Code, has been committed or is being committed with respect to an explosive substance by any person or in any place (whether a building or not, or a vehicle of any description, ship or boat), or that any explosive substance is in any such place in contravention of this Act, or that the provisions of this Act are not being duly observed by any such person or in any such place, it shall be lawful for the officer without a warrant to —

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(a) search such person or place for the purpose of detecting or preventing any offence against this Act or against section 326 or 327 of the Penal Code;

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(b) use all such force as may in any case be necessary for effecting such search;

(c) seize any explosive substance suspected of being used for the purpose of violating any of the provisions of this Act or of section 326 or section 327 of the Penal Code.

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(2) The officer seizing any such explosive substance may use for the purposes of the removal or detention thereof any ship, boat or vehicle in which the same was seized.

28 *cf* 1963, s 2

(3) The officer who in pursuance of this section seizes any explosive substance shall not be liable either civilly or criminally in respect of such seizure or any act incidental thereto or consequent thereon, unless it is proved that —

(a) he made the seizure without reasonable cause; or

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- (b) he used more force than was reasonably necessary; or
 - (c) he caused damage or injury by some wilful neglect or default.

10. If, upon any search made under the authority of section 9 of this Act, any explosive substance is found in the possession or under the charge or control of any person, it shall be the duty of the party making such search to cause the person in whose possession or under whose charge and control the explosive substance has been found, to be detained to be dealt with under the provisions of this Act, and to keep in his possession the said explosive substance, and to deal with the same as he may be directed by order of the Minister responsible for National Security who is hereby authorised, should it be deemed necessary so to do, to order the destruction thereof, or that the same shall be returned to the party from whom the same may have been taken.

Any person
having explosive
substances may
be detained
E L A O, 1974