



MONTSERRAT

CHAPTER 10.10

EXPLOSIVES ACT

Related and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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CHAPTER 10.10

EXPLOSIVES ACT

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CHAPTER 10.10

EXPLOSIVES ACT

(Acts 14 of 1997 and 9 of 2011)

AN ACT TO ENABLE MONTSEERRAT TO IMPLEMENT THE PROVISIONS OF THE CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES.

Commencement

[12 January 1998]

Short title

1. This Act may be cited as the Explosives Act.

Interpretation

2. In this Act—

“**explosive**” includes—

- (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 above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect;

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- (b) fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as above defined;
- (c) any other article defined as an explosive by an Order in Cabinet made under section 3; and (*Amended by Act 9 of 2011*)
- (d) every adaptation or preparation of an explosive as defined in paragraphs (a), (b) and (c).

Power to prohibit the manufacture, importation, conveyance and sale of explosives

3. (1) The Governor acting on the advice of Cabinet may by order prohibit either absolutely or subject to conditions or restrictions the manufacture, keeping, importation, conveyance or sale of any explosive which is of so dangerous a character that in the judgment of the Governor acting on the advice of Cabinet it is expedient for the public safety to make such Order. (*Amended by Act 9 of 2011*)

(2) An Order under subsection (1) shall not absolutely prohibit anything which may be lawfully done in pursuance of a licence issued under any Act in force in Montserrat.

Explosives manufactured in contravention of Order

4. If any explosive is manufactured in contravention of an Order made under this Act—

- (a) all or any part of such explosive or the ingredients of such explosive which may be found in the possession or under the control of any person may be forfeited; and
- (b) the person manufacturing the explosive commits an offence and is liable on summary conviction to a fine of \$10,000 or to a term of imprisonment of one year or to both.

Explosive kept in contravention of Order

5. If any explosive is kept in contravention of an Order made under this Act—

- (a) all or any part of the explosive found may be forfeited; and
- (b) the occupier of the place where the explosive was found and the person who kept the explosive each commits an offence and is liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of six months.

Explosive imported or sold in contravention of Order

6. (1) If any explosive is imported or sold in contravention of an Order made under this Act—

- (a) all or any part of such explosive may be forfeited; and
- (b) the owner and master of the ship or aircraft in which it was imported each commits an offence and is liable on summary conviction to a fine of \$10,000 or to a term of imprisonment of one year; and
- (c) the person to whom the explosive was delivered and the person selling the same each commits an offence and is liable on summary conviction to a fine of \$10,000 or to a term of imprisonment of one year.

(2) The Comptroller of Customs and every officer of the Customs Department shall have the same power with respect to the unlawful importation of explosives, as they have with respect to the importation of prohibited goods by the law relating to customs.

Penalty for conveyance in contravention of Order

7. If any explosive is conveyed in contravention of any Order made under this Act such explosive may be forfeited, and the person conveying the explosive or directing its conveyance shall be liable on summary conviction to a fine of \$10,000 or to imprisonment for a term of one year.

Prosecution of offences and recovery of penalties

8. Any explosives liable to be forfeited under this Act may be forfeited before a Magistrate in the manner directed by the Magistrate's Court Act, and the provisions of the said Act shall apply to any proceeding before a Magistrate under this Act.

UNMARKED EXPLOSIVES ORDER – SECTION 3

(S.R.O. 14/1998 and Act 9 of 2011)

Commencement

[12 March 1998]

Short title

1. This Order may be cited as the Unmarked Explosives Order.

Interpretation

2. For the purposes of this Order—

“**Convention**” means the Convention on the marking of plastic explosives for the purpose of detection held at Montreal on 1 March, 1991;

“**detection agent**” means a substance described in Part 2 of the Schedule which is introduced into an explosive to render it detectable;

“**explosives**” means explosive products known as “**plastic explosives**” including explosives in flexible or elastic sheet form, as described in Part 1 of the Schedule;

“**manufacture**” means any process, including reprocessing, that produces explosives;

“**marking**” means introducing into an explosive a detection agent in accordance with Part 2 of the Schedule.

Prohibition of manufacture, importation etc. of unmarked explosives

3. Except as otherwise authorised by this Order or by a permit issued by the Governor acting on the advice of Cabinet the manufacture, possession, transfer, sale, importation and exportation of unmarked explosives is prohibited. *(Amended by Act 9 of 2011)*

Procedure where unmarked explosives in private ownership or control

4. (1) A person who, on entry into force of this Order is the owner of, or is in control of unmarked explosives located in Montserrat, shall—

- (a) within one month of the entry into force of this Order notify the Commissioner of Police of the amount of explosives in his possession and the place where the explosives are being kept; and

- (b) within three years of the entry into force of this Order—

- (i) mark the explosives or render them permanently ineffective; or

- (ii) cause them to be consumed or destroyed,

in such appropriate manner as may be approved by the Commissioner of Police.

- (2) This paragraph shall not apply to explosives kept by the Royal Montserrat Defence Force or the Police for the purpose of performing military or police functions.

Unmarked explosives kept by military and police authorities

5. (1) The Police Commissioner or the Commandant of the Royal Montserrat Defence Force as the case may be shall take necessary measures to ensure that all stocks of explosives imported into Montserrat prior to the entry into force of this Order and kept by the Military or Police Authorities, and which are not incorporated as an integral part of duly authorised military devices are destroyed or consumed in an appropriate manner, or marked or rendered permanently ineffective within a period of fifteen years from the entry into force of this Order.

(2) For the purposes of sub-paragraph (1) and paragraph 4(1)(b)(ii) explosives are destroyed or consumed in an appropriate manner if they are destroyed or consumed for purposes not inconsistent with the objectives of the Convention.

Unmarked explosives otherwise discovered

6. The Police Commissioner shall take necessary measures to destroy as soon as may be practicable any explosives discovered in Montserrat and which are not referred to in paragraphs 4 and 5.

SCHEDULE

PART 1

DESCRIPTION OF EXPLOSIVES

1. The explosives referred to in paragraph 2(1) of this Order are those that—

- (a) are formulated with one or more high explosives which in their pure form have a vapour pressure less than 10^{-4} Pa at a temperature of 25°C;
- (b) are formulated with a binder material; and
- (c) are, as a mixture, malleable or flexible at normal room temperature.

2. The following explosives, even though meeting the description of explosives in paragraph 1 of this Part, shall not be considered to be explosives as long as they continue to be held or used for the purposes specified below or remain incorporated as there specified namely those explosives that—

- (a) are manufactured, or held, in limited quantities solely for use in duly authorised research, development or testing of new or modified explosives;
- (b) are manufactured, or held, in limited quantities solely for use in duly authorised training in explosives detection and/or development or testing of explosives detection equipment;
- (c) are manufactured, or held, in limited quantities solely for duly authorised forensic science purposes; or
- (d) are destined to be and are incorporated as an integral part of duly authorised military devices in the territory of the producer State within three years after the coming into force of this Convention in

respect of that State. Such devices produced in this period of three years shall be deemed to be duly authorised military devices within paragraph 4 of Article IV of this Convention.

3. In this Part—

“**duly authorised**” in paragraph 2(a), (b) and (c) means permitted according to the laws and regulations of the State Party concerned; and

“**high explosives**” include but are not restricted to cyclotetramethylenetetranitramine (HMXO), pentaerythritol tetranitrate (PETN) and cyclotrimethylenetrinitramine (RDX).

PART 2

DETECTION AGENTS

A detection agent is any one of those substances set out in the following Table. Detection agents described in this Table are intended to be used to enhance the detectability of explosives by vapour detection means. In each case, the introduction of a detection agent into an explosive shall be done in such a manner as to achieve homogeneous distribution in the finished product. The minimum concentration of a detection agent in the finished product at the time of manufacture shall be as shown in the said Table.

TABLE

<i>Name of detection agent</i>	<i>Molecular formula</i>	<i>Molecular weight</i>	<i>Minimum concentration</i>
Ethylene glycol dinitrate (EGDN)	$C_2H_4(NO_3)_2$	152	0.2% by mass
2,3-Dimethyl-2,3-dinitrobutane (DMNB)	$C_6H_{12}(NO_2)_2$	176	0.1% by mass
para-Mononitrotoluene(p-MNT)	$C_7H_7NO_2$	137	0.5% by mass
ortho-Mononitrotoluene(o-MNT)	$C_7H_7NO_2$	137	0.5% by mass

Any explosive which, as a result of its normal formulation, contains any of the designated detection agents at or above the required minimum concentration level shall be deemed to be marked.

CHAPTER 10.10

DYNAMITE ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. The Governor may grant licences to import, keep, and use explosives
4. Owners and masters of vessels not to unload and deliver explosives, except to licensed persons. Penalty for breach
5. Penalty for keeping and using explosives without licence, or for selling explosives, etc., to unlicensed persons
6. Powers of Treasury Officers
7. Sections 446 to 449 inclusive, of Merchant Shipping Act, 1894, incorporated

CHAPTER 10.10

DYNAMITE ACT

(Act 1 of 1884)

Commencement

[6 May 1884]

Short title

1. This Act may be cited as the Dynamite Act.

Interpretation

2. In this Act—

“**explosive**” means nitro-glycerine, dynamite, fulminate of mercury or of other metals, and every other substance, except gunpowder, used or manufactured with a view to produce a practical effect by explosion, and includes every adaptation or preparation of an explosive as above defined.

The Governor may grant licences to import, keep, and use explosives

3. The Governor may grant licences to import, keep, and use any explosive and may annex thereto any prohibitions and restrictions with respect to the composition and quality of such explosive, and the unloading,

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landing, delivery, conveyance, storing, and use thereof, and such further provisions and restrictions as he may think fit, for the protection of the public from danger, and the prevention of the improper use of such explosive, and such licence shall be of such duration as the Governor may fix, and shall be available only for the person named in the licence.

Owners and masters of vessels not to unload and deliver explosives, except to licensed persons. Penalty for breach

4. The owner and master of any vessel or boat having on board any such explosive shall not permit the same to be unloaded and delivered to any person who does not hold a licence from the Governor to import the same, and any transshipment shall for the purpose of this section be deemed to be delivery. In the event of any breach by any act or default of the provisions of this section with respect to the importation of an explosive, or of the provisions of any importation licences, all or any of the explosive with respect to which such breach is committed may be forfeited, and the owner and master of such ship or boat, and the licensee or person to whom the explosive is delivered shall each, on conviction before a Magistrate, be liable to a penalty of \$480, or in default to imprisonment for any period of six months.

Penalty for keeping and using explosives without licence, or for selling explosives, etc., to unlicensed persons

5. If any person shall keep in his possession, or in any way deal with or use any explosive without a licence from the Governor, or having a licence under this Act, shall by any act or default commit any breach of the conditions of such licence, or shall transfer by sale, or otherwise, any explosive to any person not holding a licence, he shall on conviction thereof before a Magistrate be liable to a penalty of \$240, or in default, to imprisonment for a period of three months.

Powers of Treasury Officers

6. The officers of the Treasury shall have the same power with respect to any explosive and the ship containing the same, as they have for the time being with respect to any article, on the importation of which restrictions are for the time being imposed by any law relating to the customs, and the ship containing the same; and the enactments for the time being in force relating to the customs or any such article or ship shall apply accordingly.

Sections 446 to 449 inclusive, of Merchant Shipping Act, 1894, incorporated

7. Sections 446 to 449, both inclusive, of the Merchant Shipping Act, 1894, are hereby incorporated with this Act, and shall apply to every explosive within the meaning of this Act.

