

EXPLOSIVES ORDINANCE 1928-1938.⁽¹⁾

An Ordinance Relating to Explosives.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act* 1920-1926, as follows:—

1. This Ordinance may be cited as the *Explosives Ordinance* 1928-1938.⁽¹⁾ Short title.
Amended by
No. 3 of 1934,
s. 50.
2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*.⁽¹⁾ Commencement.
3. The *Explosives Ordinance* 1921-1925 is repealed. Repeal.
- 4.—(1.) In this Ordinance, unless the contrary intention appears— Definitions.

“Explosives” means dynamite, nitro-glycerine and any other substance, whether similar to those abovementioned or not, used or manufactured with a view to produce a

(1) The *Explosives Ordinance* 1928-1938 comprises the *Explosives Ordinance* 1928, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwltth. Gaz.</i>	Date on which took effect.
<i>Explosives Ordinance</i> 1928 (No. 10 of 1928)	23.5.1928	24.5.1928	1.7.1928 (<i>N.G. Gaz.</i> of 22.6.1928)
<i>Explosives Ordinance</i> 1929 (No. 1 of 1929)	25.1.1929	31.1.1929	31.1.1929 (<i>Cwltth. Gaz.</i> of 31.1.1929)
<i>Explosives Ordinance</i> (No. 2) 1929 (No. 8 of 1929)	26.7.1929	1.8.1929	1.8.1929 (<i>Cwltth. Gaz.</i> of 1.8.1929)
<i>Explosives Ordinance</i> 1931 (No. 18 of 1931)	1.7.1931	2.7.1931	2.7.1931 (<i>Cwltth. Gaz.</i> of 2.7.1931)
<i>Explosives Ordinance</i> 1933 (No. 12 of 1933)	10.4.1933	12.4.1933	12.4.1933 (<i>Cwltth. Gaz.</i> of 12.4.1933)

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Explosives Ordinance</i> 1934 (No. 9 of 1934)	6.2.1934	30.6.1934	6.2.1934 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 36)
<i>Explosives Ordinance</i> 1938 (No. 13 of 1938)	24.8.1938	30.11.1938	24.8.1938 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 135)

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practical effect by explosion and which is declared by the Administrator by notice⁽²⁾ in the *New Guinea Gazette* to be an explosive for the purposes of this Ordinance.

Added by
No. 1 of 1929,
s. 2.

“Person” includes a firm or company.

(2.) Any reference in this Ordinance to a Form shall be read as a reference to a Form in the Schedule to this Ordinance.

Application of
Ordinance.

5. This Ordinance shall apply to the whole of the Territory:

Provided that the Administrator may from time to time by notice⁽³⁾ in the *New Guinea Gazette* declare that the Ordinance shall not, for such period as he specifies apply to any portion of the Territory described in the notice, and thereupon the Ordinance shall not for the period so specified apply to the portion of the Territory so described.

Saving.

6. Any licence or permit granted under the authority or by virtue of any Ordinance repealed by this Ordinance and not expired at the commencement of this Ordinance, and any permit to use explosives granted by the Administrator on or after the fifteenth day of August One thousand nine hundred and twenty-seven and before the commencement of this Ordinance, shall confer and involve the same rights, privileges, liabilities and effects as if this Ordinance had been in force when it was granted and as if it was granted under the authority or by virtue of this Ordinance.

Delegation by
Administrator.

7.—(1.) The Administrator may, by writing under his hand, delegate any or all of his powers or functions under this Ordinance (except this power of delegation) in relation to any matters or class of matters so that the delegated powers and functions may be exercised by the delegate with respect to the matters or classes of matters specified in the instrument of delegation.

(2.) Every delegation by the Administrator shall be revocable in writing at will and no delegation shall prevent the exercise of any power by the Administrator.

Issue of
licences.
Inserted by
No. 18 of 1931,
s. 2.

7A. The Administrator may grant a licence to any person to import, keep, store or be in possession of explosives—

(a) for the purpose of sale, barter or exchange; or

(b) for any other purpose approved by the Administrator.

(2) A notice, made pursuant to Section 4(1), dated 20.1.1932 and published in *N.G. Gaz.* of 30.1.1932, is printed on p. 2109.

(3) No notice has been published in *N.G. Gaz.*

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8. Any person who, except under licence issued in that behalf under this Ordinance, imports any explosives or who, except under any such licence or under permit issued under section fourteen or section eighteen of this Ordinance, keeps, stores or has in his possession any explosives shall be guilty of an offence.

Importation or possession of explosives prohibited except under licence or permit.

Substituted by No. 18 of 1931, s. 3.

9.—(1.) An application for a licence to import, keep, store, or be in possession of, explosives shall specify the purpose for which the explosives are to be used and the premises in which it is desired to keep the explosives.

Application for licences.

Section 9 substituted by No. 1 of 1929, s. 3.

Sub-section (1) amended by No. 18 of 1931, s. 4.

(2.) The application shall be addressed to the Administrator, who may grant or refuse it as he thinks fit.

(3.) If the Administrator grants the application, the applicant shall be entitled to receive a licence on payment of a fee of Five pounds:

Provided that where an application for a licence is made after the month of July in any year, the licence-fee shall be proportionately reduced in accordance with the length of the period during which the licence is to remain in force.

(4.) A licence under this section shall specify the purpose for which it is granted and be in accordance with Form A and, unless sooner suspended, cancelled, or forfeited, shall expire on the thirtieth day of June then next ensuing, but may be renewed from time to time for a further period of twelve months on payment of the prescribed fee.

Sub-section (4) amended by No. 18 of 1931, s. 4.

10.—(1.) The holder of a licence under the last preceding section (which licence is in this section referred to as "the original licence") may apply to the Administrator for a licence to keep explosives in premises other than those specified in the original licence.

Licences for other premises.

Section 10 substituted by No. 1 of 1929, s. 4.

(2.) The Administrator may grant or refuse the application, as he thinks fit.

(3.) If the Administrator grants the application, the applicant shall be entitled to receive a licence in respect of the premises mentioned in the application on payment of a fee of One pound.

(4.) A licence under this section shall be in accordance with Form B, and shall expire on the date on which the original licence expires, but may be renewed from time to time for any period for which the original licence is renewed on payment of the prescribed fee.

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Section 11 repealed by No. 12 of 1933, s. 2.

EXPLOSIVES AND INFLAMMABLE LIQUIDS—

Books to be kept.

12.—(1.) Any person to whom a licence under section nine has been issued shall keep proper books in which shall be entered the quantity, nature, and value of all explosives purchased or sold by him together with particulars of the date of purchase or sale and the name of the vendor or buyer, as the case may be.

(2.) The accounts, books and documents of any licensee shall at all reasonable times be open for inspection by any person authorized in that behalf by the Administrator and that person may, upon inspection, make and take away extracts from those books of account and documents.

Unauthorized use of explosives.

Section 13 substituted by No. 12 of 1933, s. 3.

13.—(1.) Any person, not being the holder of a permit issued in pursuance of this Ordinance, who uses or employs explosives for any purpose shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months or both.

(2.) If any native dies or suffers injury as the result of the unauthorized use of explosives by any person, not being the holder of a permit issued in pursuance of this Ordinance, or by any native authorized or permitted by such person to use, employ or handle explosives, that person shall be deemed to be an employer within the meaning of section sixteen of this Ordinance and shall be liable to pay compensation in respect of the death or injury of any such native in accordance with the provisions of that section.

Permit to use explosives for fishing purposes.

14.—(1.) An application for a permit to use explosives for the purposes of fishing in open waters may be made to the Administrator who may grant or reject the application as he thinks fit.

Sub-section (2) amended by No. 1 of 1929, s. 5, and by No. 18 of 1931, s. 5.

(2.) Before a permit is granted the applicant shall give security, to the satisfaction of the Administrator, for the payment of any compensation which may become payable by the applicant under section sixteen of this Ordinance in respect of injuries caused by the use of explosives, and shall pay a fee of Five pounds.

Provided that where an application is made after the month of July in any year, the fee shall be proportionately reduced in accordance with the length of the period during which the permit is to remain in force.

Sub-section (3) amended by No. 1 of 1929, s. 5.

(3.) A permit shall be in accordance with Form C and, unless sooner suspended, cancelled or forfeited, shall expire on the thirtieth day of June then next ensuing from the date of the permit but may be renewed from time to time on payment of the prescribed fee.

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15. Where an applicant for, or a holder of, a permit to use explosives for the purposes of fishing intends that the actual fishing operations shall be carried out by an employee (including a native) the employee shall present himself to the Administrator, or to an officer approved by the Administrator, and if, in the opinion of the Administrator, or the approved officer, the employee is suitable to be entrusted with the duties connected with the use of explosives for the purposes of fishing, his name shall be entered upon the permit as an approved employee:

Approved employees only to use explosives for fishing purposes.
Amended by No. 9 of 1934, s. 2.

Provided that for the entry upon the permit of every name of an approved employee in excess of four approved employees the applicant or holder shall pay a fee of One pound.

Proviso added by No. 9 of 1934, s. 2.

16.—(1.) If any native, being an approved employee within the meaning of the last preceding section, dies or suffers injury as the result of using explosives in the course of his employment, or if any native dies or suffers injury in the course of his employment as the result of the use of explosives by the holder of a permit under section fourteen or section eighteen of this Ordinance or by any employee approved under the last preceding section, the employer shall, as soon as practicable, give notice thereof to the District Officer.

Compensation for injuries.

Section 16 substituted by No. 1 of 1929, s. 6.

Sub-section (1) substituted by No. 18 of 1931, s. 6.

(2.) The District Officer shall thereupon refer the matter to the District Court for determination of the amount of compensation (if any) to be paid.

(2A.) In the event of the employer failing to give notice in accordance with sub-section (1.) of this section, the District Officer shall refer the matter to the District Court on receiving notice thereof from the native or his legal personal representative, and summon the employer to appear before that Court for determination of the amount of compensation (if any) to be paid.

Sub-section (2A) inserted by No. 8 of 1929, s. 2.

(3.) After hearing evidence in regard to the matter, the District Court may order the employer to pay compensation in accordance with the prescribed scale.

(4.) Compensation ordered to be paid in pursuance of this section shall be paid to the prescribed officer, who shall distribute it to such persons, in such proportions, and in such manner, as the court directs.

(5.) An order under this section may be enforced by the prescribed officer in the same manner as any other order of the District Court, and, in addition, may be enforced against any security lodged by the employer in pursuance of section fourteen of this Ordinance.

EXPLOSIVES AND INFLAMMABLE LIQUIDS—

Offences.

17.—(1.) Any person to whom a permit under section fourteen has been issued who—

- (a) employs any person other than an approved employee to use explosives for the purposes of fishing;
- (b) permits a native other than an approved employee under section fifteen of this Ordinance, to handle explosives during fishing operations;
- (c) uses or permits explosives to be used for the purposes of fishing within two miles of any District Office or in any creek, river, small bay or inlet,

shall be guilty of an offence.

Sub-section (2)
added by
No. 12 of 1933,
s. 4.

(2.) If any native dies or suffers injury as the result of any contravention of paragraph (a) or (b) of the last preceding sub-section, the person to whom the permit under section fourteen has been issued shall be liable to pay compensation in respect of the death or injury of any such native in accordance with the provisions of the last preceding section.

Issue of Special
permits.

18.—(1.) The Administrator may grant a special permit to any person to use explosives for any approved purpose other than for the purpose of fishing.

(2.) Such permit may be issued under such conditions and subject to such fee as are prescribed.

Power to cancel
licence or permit.

19. The Administrator may, for any reason which he considers good and sufficient, suspend or cancel any licence issued under section nine or any permit issued under sections fourteen or eighteen of this Ordinance.

Sale of explosives
to certain persons
only.

20. Any person who sells, gives or otherwise disposes of any explosives to any person other than a person to whom a licence under section nine or a permit under sections fourteen or eighteen has been issued shall be guilty of an offence.

Penalties.

21. The penalty for any breach or non-observance of the provisions of this Ordinance shall be a fine of Fifty pounds or imprisonment for six months or both and, in addition, the Court may order the forfeiture of the offender's licence or permit.

Regulations.

Sub-section (1)
amended by
No. 13 of 1938,
s. 2.

22.—(1.) The Administrator in Council may make regulations⁽⁴⁾ not inconsistent with this Ordinance prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular for prescribing—

- (a) the conditions under which special permits may be issued under section eighteen of the Ordinance and the fees therefor;

(4) See the *Explosives Regulations*, printed on p. 2105.

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(b) the fees payable on renewal of licences and permits;

Paragraph (b) substituted by No. 1 of 1929, s. 7; amended by No. 12 of 1933, s. 5.

(c) the scale of compensation to be paid under section sixteen of this Ordinance; and

Paragraph (c) inserted by No. 1 of 1929, s. 7; amended by No. 8 of 1929, s. 3.

(d) the conditions under which explosives may be stored in any locality.

Paragraph (d) added by No. 12 of 1933, s. 5.

(2.) The regulations may prescribe a penalty not exceeding Fifty pounds for any offence against the regulations.

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Sub-sections (3) and (4) omitted by No. 13 of 1938, s. 2.

THE SCHEDULE.

Schedule inserted by No. 1 of 1929, s. 8.

Section 9.

Form A.

TERRITORY OF NEW GUINEA.

Explosives Ordinance 1928-1929.

LICENCE TO IMPORT EXPLOSIVES.

M of is hereby licensed to import explosives, and to keep, store, and be in possession of, explosives at his premises situate at for the purpose of , for the period ending 30th June, 19 .

Dated at this day of ,
One thousand nine hundred and

Administrator.

Section 10.

Form B.

TERRITORY OF NEW GUINEA.

Explosives Ordinance 1928-1929.

LICENCE TO KEEP EXPLOSIVES ON OTHER PREMISES.

M of the holder of a licence to import and keep explosives at his premises situate at is also licensed to keep, store, and be in possession of, explosives at his premises situate at for the purpose of , for the period ending 30th June, 19 .

Dated at this day of ,
One thousand nine hundred and

Administrator.

EXPLOSIVES AND INFLAMMABLE LIQUIDS—

Section 14.

Form C.

TERRITORY OF NEW GUINEA.

Explosives Ordinance 1928-1929.

PERMIT TO USE OR EMPLOY EXPLOSIVES FOR THE PURPOSES
OF FISHING.

M _____ of _____ is hereby
permitted to use _____ for the purposes of fishing in
open waters for the period ending 30th June, 19 .

Name of approved employee _____

Dated at _____ this _____ day of

_____, One thousand nine hundred and _____

_____, Administrator.

NOTE.—Section seventeen⁽⁵⁾ of the *Explosives Ordinance* 1928-1929 is as follows:—

Offences.

17.—Any person to whom a permit under section fourteen has been issued who—

- (a) employs any person other than an approved employee to use explosives for the purposes of fishing;
- (b) permits a native other than an approved employee under section fifteen of this Ordinance, to handle explosives during fishing operations;
- (c) uses or permits explosives to be used for the purposes of fishing within two miles of any District Office or in any creek, river, small bay or inlet,

shall be guilty of an offence.

Forms A and
B repealed by
No. 1 of 1929,
s. 9.

* * * * *

(5) A Sub-Section (2) was added to Section 17 by the *Explosives Ordinance* 1933, but no corresponding addition has been made in Form C.