

THE EXPLOSIVES ACT, 2026

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THE EXPLOSIVES ACT, 2026

AN ACT of Parliament to repeal and replace the Explosives Act, Cap. 115; to provide for the establishment of the Directorate of Explosives and Inspections; to provide for the designation of the Chief Inspector of Explosives and Inspectors of Explosives; to provide for requirements and restrictions on the possession, manufacture, storage, dealing, import, export, transportation and use of explosives; to provide for safety and

precautionary measures in the use and handling of explosives; and for connected matters

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Explosives Act, 2026.

Interpretation.

2. In this Act—

“Committee” means the committee constituted under section 30;

“ANFO” means a mixture of ammonium nitrate and fuel oil mixed manually or mechanically in the ratio of 94:6 by weight

“authorized explosive” means any explosive set out in the First Schedule to this Act;

“blaster” means a person who is in possession of a valid blasting permit issued under section 38;

“blasting contractor” means a company or corporate entity licensed under the Act and contracted to manage, supervise and execute drilling and blasting operations on a site;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to explosives;

“Chief Inspector of Explosives” means the person designated as such under section 8;

“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.

“dangerous fireworks” means fireworks containing an admixture of phosphorus, whether or not in the amorphous form, with chlorate of potassium or other chlorate or fireworks which contain an admixture of sulphur with chlorate of potassium or other chlorate;

“dealer” means a person licensed under this Act to trade in authorized explosives;

“Director-in-charge” means a person appointed under section 7 of this Act;

“Directorate” means the Directorate of Commercial Explosives and Inspections established under section 5;

"explosive" means—

(a) a substance, or a mixture of substances, in a solid, liquid or gaseous state, which is capable of producing an explosion;

(b) a pyrotechnic substance in a solid or liquid state, or a mixture of such substances, designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of non-detonative self-sustaining exothermic chemical reaction, including pyrotechnic substances which do not evolve gases;

(c) any article or device containing one or more substances contemplated in paragraph (a);

(d) any plastic explosive; or

(e) any other substance or article declared by the Cabinet Secretary to be an explosive under section 4;

"explosives factory" means premises licensed to manufacture authorised explosives;

“explosives incident” means any of the following events involving an explosive where—

(a) an explosive is, or appears to have been lost or stolen;

(b) an accidental explosion, fire or spillage occurs;

(c) an explosion causes the death of, or an injury to, a person;

(d) an explosion causes damage to property; and

(e) an event occurs, including a misfire, with the potential to cause any of the events referred to in paragraphs (a) to (d), other than an event that usually happens when handling or using an explosive;

“explosives magazine” means any building or structure licensed under this Act for the storage of explosives.

“fireworks contractor” means a company or corporate entity licensed under the Act and contracted to execute a public fireworks display;

“inspector” means an inspector of explosives designated under section 6;

“licensee” means a holder of any licence issued under this Act;

“manufacture of explosives” means mixing, blending, extruding, synthesizing, assembling, disassembling and other activities involved in the making of a chemical compound, mixture or device which is intended to explode.

“misfire” means a drill hole or part thereof in which the blasting explosives, or any portion thereof, charged into the hole has failed to explode or explosives that fails to detonate;

*Article 239 (1) of the
Constitution*

“National security organs” has the meaning assigned to it under the Constitution;

“permit” means an authorization granted to a person to enable the carrying out of any activity in accordance with this Act;

“person” means includes a company, association or other body of persons whether incorporated or unincorporated;

"premises" includes any land, place, road, harbour, open water, river, building, structure, tent, ship, boat, aircraft, railway truck, cart, van or other vehicle or vessel;

“Principal Secretary” means the Principal Secretary in the State Department for the time being responsible for matters relating to explosives;

“pyrotechnician” means a licensed person responsible for or in charge of, setting up and firing fireworks in accordance with this Act; and

“unauthorized explosive” means any explosive which is not set out in the First Schedule or not gazetted by the Cabinet Secretary as an explosive

Application.

3. (1) This Act shall apply to—

(a) authorized explosives used for commercial purposes ; and

- (b) 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 their duty and every sample is kept and conveyed with all due precaution.

(2) This Act shall not apply to explosives for use by national security organs in pursuance of their lawful mandate.

Oversight role of the
Cabinet Secretary.

4. (1) The Cabinet Secretary—

- (a) shall be responsible for the general administration of this Act;
- (b) shall make Regulations to further the purposes of paragraph (1) including to prescribe—
 - (i) consideration of applications made under this Act;
 - (ii) grant, revocation, suspension or renewal of licenses;
- (c) may, by statutory instrument—
 - (i) declare any other explosive to be an authorized explosive;
 - (ii) amend the First Schedule to this Act;
 - (iii) declare any substance, article or material to be an explosive for purposes of this Act; and
 - (iv) limit the number of authorized explosives of any class or classes that may be imported or exported within a specified period; and

(2) The Cabinet Secretary may, in the interest of public safety, by notice in the Gazette, prohibit or restrict, for such period as may be specified in the notice, the transportation, possession or use of authorised explosives in such areas, or by such categories of persons, as may be specified in the notice.

**PART II—ESTABLISHMENT OF THE DIRECTORATE OF COMMERCIAL
EXPLOSIVES AND INSPECTIONS AND DESIGNATION OF INSPECTORS**

Establishment of the Directorate of Commercial Explosives and Inspections.

5. (1) There is established the Directorate of Commercial Explosives and Inspections.

(2) The Directorate shall be headed by a director -in-charge.

(3) The Cabinet Secretary—

- (a) may establish such other directorates as may be necessary; and
- (b) shall ensure reasonable access to the services of the Directorate as shall be necessary so as to ensure its services are easily accessible by Kenyans in accordance with Article 6(3) of the Constitution.

Staff of the Directorate.

6. (1) The Directorate shall comprise inspectors of explosives and such other officers as may be necessary for the effective discharge the functions of the Directorate and for the purposes of this Act.

Cap. 185

(2) The Public Service Commission shall ensure that inspectors of the Directorate possess relevant qualifications, knowledge and demonstrable experience in handling explosives.

(3) The Cabinet Secretary shall, by notice in the *Gazette*, designate duly qualified inspectors for jurisdictional units as may be specified in the notice.

(4) An inspector shall monitor compliance and take enforcement action and perform such other functions as may be required under this Act or specified in the notice of appointment.

(5) The Director and inspectors shall, in the exercise of their functions under this Act, be subject to this Act and any other relevant law.

Appointment of Director-in-charge.

7. (1) A director-in-charge shall be competitively recruited and appointed by the Public Service Commission upon such terms and conditions as the Public Service Commission shall determine.

(2) A person shall not be appointed as the Director-in-charge of Explosives unless that person possesses requisite qualifications, knowledge and demonstrable experience in matters relating to handling of explosives.

(3) A person is qualified to be appointed as a director, if that person—

- (a) is a citizen of Kenya;
- (b) holds a post graduate degree in Mining Engineering, Chemical Engineering, Environmental Science, or equivalent qualification from a recognized institution.
- (c) has had at least ten years proven experience at senior management level; and
- (d) meets the requirements of Chapter Six of the Constitution.

Designation of
Director as Chief
Inspector of
Explosives.

8. (1) The Cabinet Secretary shall, by notice in the *Gazette* designate the Director-in-charge as the Chief Inspector of Explosives.

(2) The Chief Inspector of Explosives may delegate any of their functions and powers to an explosives inspector.

Functions of the
Directorate

9. (1) The Directorate shall, through the Principal Secretary, be responsible to the Cabinet Secretary for—

- (a) the day-to-day operations of the Directorate of Commercial Explosives and Inspections;
- (b) exercising regulatory administration and supervision over the use of commercial explosives in accordance with this Act and regulations thereto;
- (c) advise on the development of national policies in line with international instruments and ensure compliance with obligations arising from regional and international conventions ratified by Kenya;

- (d) promote cooperation among state agencies, county governments and other stakeholders who are engaged in activities in the commercial explosives sector;
- (e) receive and consider applications for licences and permits and collaborate with other state agencies in conducting verification exercises of various applications pursuant to this Act;
- (f) issue licences and permits to qualified applicants in accordance with this Act and Regulations;
- (g) undertake research and development in matters relating to commercial explosives;
- (h) promote research and innovation and collaborate with relevant institutions including industry and academia;
- (i) advise on training curricula and training needs in the explosives industry including in tertiary institutions;
- (j) establish and maintain an up-to-date database on explosives including an electronic format register of certified blasters and pyrotechnicians, and of holders of licenses and permit;
- (k) register and certify qualified blasters and pyrotechnicians in accordance with prescribed requirements;
- (l) advise the Cabinet Secretary on the regulations necessary for the effective implementation of this Act;
- (m) advise revenue authorities, customs authorities and other border control agencies on the classification, packaging, storage and transportation of explosives;

- (n) carry out pre-licensing and post-licensing inspections and approve sites or premises proposed for the manufacture or storage of explosives;
- (o) inspect and approve the design and construction of explosives factories, magazines, and vehicles used for the transportation of explosives;
- (p) facilitate the convening of inter-agency ad hoc committees established under this Act;
- (q) investigate and determine complaints or disputes arising under this Act or Regulations made thereunder;
- (r) undertake public awareness, education programmes and disseminate information on matters relating to explosives;
- (s) submit reports as required under this Act or Regulations; and
- (t) perform any other function the Cabinet Secretary may assign in writing from time to time or any other relevant law.

Powers of inspectors
to enter and inspect
premises.

10. (1) It shall be lawful for an 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 Regulations, 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

(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.

(d) to seize, remove, detain, render safe or otherwise secure any explosives or related materials found during an inspection and any container, vehicle, vessel or aircraft in which the explosives are being kept or carried, if he has reason to believe or suspect that there has been a contravention of this Act in respect of those explosives or pose a risk to public safety;

(e) to require the owner or person in possession of any explosive at their cost, destroy or render harmless, or give directions for the destruction or rendering harmless of, the explosive in any case where he believes it necessary in the public interest or for the safety of any person so to do.

(f) to require the production of any licence, permit, document, any book, record required by this Act to be held or kept or relating to explosives and examine and take copies of or extracts thereof;

(g) direct that any part of the premise which he has power to enter, or anything in such premise, be left undisturbed for as long as is reasonably necessary for the purpose of any inspection; and

(h) any other power as may be prescribed by the Cabinet Secretary

(2) In exercising powers under this section, an inspector shall—

(a) identify themselves and state the purpose of the entry;

(b) exercise the powers in a reasonable manner and without unnecessary interference with lawful activities; and

(c) where practicable, issue a written record of any seizure or action taken.

Power to stop
dangerous methods.

11. (1) Where an inspector finds any method of work, storage, packing or use in connection with explosives to be in conflict with this Act or the regulations, or to be dangerous to the public security or to the safety of any person, the inspector may—

(a) with the approval of the Chief Inspector of Explosives in writing confiscate and remove the explosives;

(b) by order, require the immediate discontinuance of such method; or

(c) by order in writing, require remedial measures to be taken within a specified duration.

(2) Any action taken pursuant to subsection (1) (b) and (c) shall be communicated in writing to the Chief Inspector of Explosives within 48 hours of such action being taken.

(3) If an aggrieved party is dissatisfied with a decision of the Chief Inspector of Explosives given under this section, that party may within thirty days of such decision appeal to the Cabinet Secretary for a review of the decision.

Police assistance.

12. An inspector may request the assistance of a police officer, and the police officer shall provide such assistance as may be necessary for the effective exercise of powers under this section.

Power of arrest.

13. A police officer above the rank of an Inspector may arrest, without warrant, any person whom he has reasonable grounds to believe has committed an offence under this Act, and forward the file to the Office of the Director of Public Prosecutions who shall then arraign the person before a court within the period specified in the Constitution and the Criminal Procedure Code.

Obstructing inspector
or refusing to answer
inquiries.

14. (1) A person who—

- (a) obstructs or hinders an inspector in the exercise of any power under this Act or regulations;
- (b) fails or refuses to produce any licence, permit, record or document required under this Act or regulations;
- (c) knowingly provides false or misleading information to an inspector; or
- (d) fails to comply with any lawful requirement or direction of an inspector in accordance with this Act or regulations,
commits an offence.

(2) A person convicted of an offence under subsection (1) shall be liable, on conviction, to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years; or to both.

Protection from
personal liability.

15. (1) No matter or thing done by an inspector or other officer under this Act shall, where the matter or thing was done in good faith in the execution of the functions or powers granted under this Act, render the member, officer, employee or agent personally liable for any action, claim or demand whatsoever.

(2) Despite subsection (1), nothing in this section shall exempt a member, an inspector or other officer, individual responsibility for unlawful or criminal act committed by the inspector or other officer.

**PART III— RESTRICTION OF AUTHORIZED AND UNAUTHORIZED
EXPLOSIVES**

Manufacture of unauthorized Explosives

Restriction of
manufacture of
unauthorized
explosives.

16. (1) A person shall not manufacture unauthorized explosives unless—

- (a) the explosive is intended for experimental purposes and in such quantities and under such conditions as may be specified in writing by the Chief Inspector of Explosives.
- (b) the explosive is manufactured solely for practical trial and product development as an explosive and in such

quantities and under such conditions as may be specified in writing by the Chief Inspector of Explosives.

(2) The Chief Inspector of Explosives may grant written permission to manufacture unauthorized explosives on licenced sites or premises for a specified period including—

- (a) premises where explosives are manufactured for testing;
- (b) a recognized tertiary or research institution for purposes of training; and
- (c) in any laboratory or testing facility recognized by the Chief Inspector of Explosives.

(3) Unauthorized explosives manufactured pursuant to this section shall not be for sale.

(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 person.

(5) A person who manufactures any category of unauthorized explosives without a licence commits an offence and is liable, on conviction to a fine not exceeding twenty-five million shillings or to imprisonment for life, or both

Application for licence to manufacture unauthorized explosives.

17. (1) A person who wishes to manufacture unauthorized explosives for purposes contemplated under section 16, shall make an application to the Chief Inspector of Explosives for a licence in the prescribed manner.

(2) Regulations shall prescribe the requirements and procedure for the application for the licence under subsection (1).

Consent of owner of premises.

18. (1) A person who wishes to manufacture unauthorized explosives in any premise other than their own, shall seek consent in the prescribed form to the owner of the premises disclosing all relevant information.

(2) 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 or she was unaware that any such contravention was occurring or had occurred.

Restriction of storage or possession of unauthorized explosives.

19. (1) A person shall not keep, store, or be in possession of any unauthorised explosive unless it has been manufactured in accordance with section 17 and—

(a) does not exceed two kilograms in weight; or

(b) is kept, stored or possessed in such manner and in such quantities as have been approved in writing by the Chief Inspector of Explosives

(2) The conditions for temporary storage of manufactured unauthorized explosives shall be as prescribed in the Regulations.

Manufacture of authorized Explosives

Restriction of manufacture of authorized explosives.

20. (1) A person shall not manufacture any category of authorised explosive unless the person is licensed to manufacture that category of explosive at a licenced explosives factory or any other premise or site licensed to manufacture explosives.

(2) For the avoidance of doubt, a site includes a place intended for mixing nitrate with fuel oil where the mixture (ANFO) is planned to be used.

(3) A person who manufactures any category of authorized explosive without a licence commits an offence and is liable, on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or both.

Application for licence to manufacture authorized explosives.

21. (1) A person who wishes to manufacture a specific category or categories of authorized explosives shall apply to the Chief Inspector of Explosives for a licence in accordance with this Act and Regulations.

(2) An application for a licence referred to under subsection (1) shall be accompanied by—

(a) a copy of approval to establish an explosives factory;

(b) a certified copy of company certificate of incorporation;

- (c) a certificate of good conduct of the applicant or its directors and shareholders in case of a company;
- (d) the specifications, nature and composition of the category of authorised explosives intended to be manufactured;
- (e) a description of each mobile process unit to be used;
- (f) a description of any safety features to be put in place at the site to minimise likelihood of harm to people or property;
- (g) a description of the location and nature of the facility where the explosives manufactured shall be stored;
- (h) a description of the principal manufacturing equipment to be used and its safety features;
- (i) the procedure for cleaning the equipment at the end of the shift and when the equipment is removed from a site; and
- (j) proof of payment of the prescribed fees; and
- (k) any other information or documentation as may be prescribed.

(3) Regulations shall prescribe further requirements and procedure for the application for the licence referred under subsection (2).

Restriction of storage
or possession of
authorized explosives.

22. (1) Except as otherwise provided in this Act or Regulations, a person shall not keep, store or be in possession of any authorized explosive in or on any premises or site except in a licensed explosives factory or explosives magazine.

(2) 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 stipulated for any such contravention, unless such owner or occupier as the case may be satisfies the Court before which he or she is charged was unaware that any such contravention was occurring or had occurred.

(3) A person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding five million shillings, or, to imprisonment for a term not exceeding five years, or to both, and the explosives in respect of which the contravention has taken place shall be forfeited to the State for destruction.

Application for a
dealers licence.

23. (1) A person who wishes to deal or trade in authorised explosives shall apply to the Chief Inspector of Explosives for a dealer's licence to carry on trade in authorised explosives.

(2) The application under subsection (1) shall be accompanied by—

- (a) proposed quantity, nature and type of explosives he or she wishes to deal in;
- (b) a certified copy of company certificate of incorporation;
- (c) a certificate of good conduct of the applicant or its directors and shareholders in case of a company;
- (d) proof of technical skills in dealing in explosives;
- (e) proof of financial capability;
- (f) tax compliance certificate;
- (g) a plan showing the design and specifications of magazines, mounds, materials to be used in, and the mode of construction of magazines;
- (h) a copy of an environmental impact assessment licence;
- (i) a current cadastral map from the Survey of Kenya showing the situation of the parcel of land upon which the proposed dealership is to be set up;
- (j) proof of payment of the prescribed fees; and
- (k) any other information or documentation as may be prescribed.

(3) A person who trades or deals in authorized explosives without a licence commits an offence and is liable upon conviction to a fine not exceeding five million shillings, or, to imprisonment for a term not exceeding ten years, or to both, and the explosives in respect of which the contravention has taken place shall be forfeited to the State for destruction.

(4) Regulations may prescribe the procedure and requirements for the application for a dealer's licence.

Pyrotechnician
licence.

24. (1) A person shall not ignite, use, or cause to be used any dangerous fireworks or hold a public display of fireworks unless the person is in possession of a pyrotechnician licence.

(2) The supervision of public fireworks display shall be supervised by an inspector of explosives.

(3) A person who wishes to be licensed as a pyrotechnician shall apply to the Chief Inspector of Explosives in the prescribed manner.

(4) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings, or imprisonment for a term not exceeding ten years, or both.

(5) Regulations shall prescribe the procedures and requirements necessary for the application of a pyrotechnician licence.

PART IV —EXPLOSIVES FACTORIES AND EXPLOSIVES MAGAZINES

Explosives Factory

Prohibition on
establishment of an
explosives factory.

25. (1) A person shall not establish or operate an explosives factory unless the person is licenced by the Cabinet Secretary, on the recommendation of the Ad-hoc Advisory Committee constituted under section 29, to establish or operate an explosives factory.

(2) A person who establishes, erects, maintains or uses an explosives factory without a licence commits an offence and is liable, on conviction, to a fine not exceeding twenty-five million shillings or to imprisonment for life.

Majority shareholding.

26. A person shall not be granted a licence to establish or operate an explosives factory unless the factory is owned by citizens of Kenya holding not less than fifty-one per cent of the shareholding.

Public inquiry and
feedback.

27. (1) Before making any application for a licence under this section, a person intending to make an application shall give thirty days' notice, by public advertisement, in at least two newspapers of of nationwide circulation.

(2) The applicant shall state in the notice that an application has been made under this Act for the grant of a licence to erect a factory for the

manufacture of authorized explosives, describing as far as possible the proposed site of the factory, and stating that the Directorate on behalf of the Cabinet Secretary will sit to hear any objections to the grant of such a licence, and the date, time and place on or at which that Directorate will sit to hear the application.

(3) The notice under subsection (1) shall state that any person or body of persons desirous of making any representation on or objection to the application or to the grant of the licence shall do so by letter addressed to the Directorate and marked on the outside of the cover enclosing it "Explosives Factory Licence Objection", on or before the expiration of thirty days from the date of the application as stated in the notice and that a copy of any representation or objection shall be forwarded to the applicant.

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

(5) The Directorate shall hear any objections in public in one or several sittings, at a time and place which shall be given to the applicant which shall not be less than thirty days from the date of the notice.

(6) The Cabinet Secretary in consultation with the Chief Inspector of Explosives shall make known his or her decision regarding any objection within thirty days after the hearing.

Application for licence
to establish an
explosives factory.

28. (1) Subject to sections 26 and 27, a person who wishes to erect or establish an explosive factory for the manufacture of explosives shall apply to the Chief Inspector of Explosives for a licence in the form and manner prescribed in the Regulations.

(2) The application under subsection (1) shall be accompanied by—

- (a) diagrams or plans of the proposed factory, on such scale or scales as prescribed;
- (b) a certified copy of company certificate of incorporation;
- (c) a certificate of good conduct of the applicant or its directors and shareholders in case of a company;

- (d) a current cadastral map from the Survey of Kenya showing the situation of the parcel of land upon which the proposed factory is to be set up;
- (e) 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;
- (f) 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;
- (g) 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;
- (h) 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;
- (i) an environmental and social impact assessment certificate issued under the National Environmental Management Authority;
- (j) the maximum number of persons of each nationality which it is proposed to employ in each danger building in the factory; and
- (k) any other information or documentation as may be prescribed.

Constitution of an Ad-hoc Advisory Committee.

29. (1) Upon receipt of a duly completed application, the Cabinet Secretary shall constitute an Advisory Ad-hoc Advisory Committee to—

- (a) review the application and determine the suitability of an applicant; and
- (b) prepare a report and make recommendations to the Cabinet Secretary.

(2) The Advisory Committee shall consist of—

- (a) a representative of the Directorate who shall be the Secretary of the Committee;
- (b) a representative of the relevant County Government;
- (c) a representative of the Ministry of Public Works;
- (d) a representative of the Ministry of Lands;
- (e) a representative of the National Environment Management Authority;
- (f) a representative of the Directorate of Occupational Safety and Health Services;
- (g) two representatives of the National Security Organs; and
- (h) two members of the public representing the community who shall not be of the same gender.

(3) The nominated persons shall be required to possess demonstrable experience in handling explosives or any other relevant experience.

(4) The Committee shall, within a period of ninety days—

- (a) review applications forwarded by the Cabinet Secretary;
- (b) undertake due diligence necessary in the exercise of its mandate, including visiting sites or premises; and
- (c) recommend the issuance of licences to qualified applicants.

(5) In undertaking its mandate, the Committee shall consult with the relevant county government and members of the public where the applicant seeks to undertake the operations as to the suitability of the proposed site or premises.

Decision of the
Cabinet Secretary.

30. (1) Upon receipt of the report and recommendations of the Advisory Committee, the Cabinet Secretary may, within thirty days, grant or refuse to grant a licence and shall, in the case of a refusal, provide the applicant with written reasons, or may grant a licence subject to such conditions as the Cabinet Secretary may determine.

(2) The decision of the Cabinet Secretary under subsection (1) shall be published in the Gazette and in two newspapers of nationwide circulation.

(3) A person dissatisfied by a decision of the Cabinet Secretary under this section may appeal against the decision to a court of competent jurisdiction.

Explosives Magazines

Prohibition on establishment of an explosive magazine.

31. (1) A person shall not establish or operate an explosives magazine unless the person is licensed to establish or operate the explosives magazine.

(2) A person who stores explosives in any other place other than an explosives magazine licensed under this Act, or who establishes or operates an explosives magazine without a licence, commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or both.

Application for licence to establish an explosives magazine.

32. (1) A person who wishes to erect or establish an explosive magazine for the storage of explosives shall apply to the Chief Inspector of Explosives for a licence in the form and manner prescribed in the Regulations.

(2) The application under subsection (1) shall be accompanied by—

- (a) diagrams or plans of the proposed magazine, on such scale or scales as prescribed;
- (b) a certified copy of company certificate of incorporation;
- (c) a certificate of good conduct of the applicant or its directors and shareholders in case of a company;
- (d) each type of explosive to be stored;
- (e) a certified land search from a Land Registrar showing the registered owner of the parcel of land upon which the proposed magazine is to be set up;
- (f) quantity of explosives to be stored;

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- (g) the construction materials used for each building at the site and all ventilation and air conditioning systems, earthing and measures for protection from fire and lightning;
- (h) an environmental and social impact assessment certificate issued under the Environmental Management and Coordination Act;
- (i) proof of payment of prescribed fees; and
- (j) any other information or documentation as may be prescribed.

(3) Regulations may prescribe the procedure and further requirements for the application for a licence to establish or operate an explosives magazine.

PART V — PERMITS

Restriction of import
and export of
explosives.

33. (1) A person shall not import into or export authorised explosives from Kenya or cause an explosive to be imported into or exported from Kenya, unless the person is licenced as a manufacturer of explosives and—

- (a) the person is in possession of an import or export permit issued by the Chief Inspector of Explosives; and
- (b) in the case of the export of explosives, he or she is in possession of a relevant authorisation of end user by the relevant authority in the country of export.

(2) Without prejudice to subsection (1), the Chief Inspector of Explosives may issue an import or export permit to a licenced dealer, for the category of explosives specified in First Schedule to this Act.

(3) Despite subsection (1), the Chief Inspector of Explosive may exempt persons importing or exporting authorised explosives for special purposes.

(4) A person who qualifies for exemption under subsection (2) shall be required to make an application to the Chief Inspector of Explosives for a special import permit.

(5) A person who imports or exports explosives without an import or export permit or a special import permit, commits an offence and is

liable, on conviction, to a fine not exceeding twenty-five million shillings or to imprisonment for a term not exceeding ten years, or both.

(6) The Chief Inspector of Explosives shall order for the consignment imported in contravention of this section to be returned to the country of origin at the expense of the importer.

Application for import or export permit.

34. (1) Subject to section 33, a person who wishes to import or export authorised explosives shall apply to the Chief Inspector of Explosives for an import or export permit in the prescribed manner.

(2) An applicant under subsection (1) shall inform the Chief Inspector of Explosives in the prescribed form of any change of circumstances relating to the import or proposed importation of the explosives to which the application relates, within twenty-four hours of becoming aware of the change.

(3) Regulations may prescribe the procedure and requirements required to issue an import or export permit to the applicant.

Grant of import or export permit.

35. (1) Where the Chief Inspector of Explosives is satisfied that an applicant meets the requirements of this Act and Regulations, the Chief Inspector of Explosives shall issue an import or export permit stating the conditions for the import or export of the authorised explosives and specifying the point of entry to be used.

(2) An importer or exporter shall present the consignment and accompanying documents to the Chief Inspector of Explosives or an authorized officer for inspection at the point of entry or exit.

(3) An import or export permit issued under this section shall be for a single consignment of importation or exportation of explosives.

(4) Regulations may prescribe the procedure for handling, packaging and safety measures during the importation and exportation of explosives.

Permit to transport explosives.

36. (1) A person shall not transport explosives by any means unless he or she holds a permit to transport explosives issued in accordance with this Act and Regulations.

(2) A permit issued under subsection (1) shall be for a single consignment transported in accordance with the terms and conditions specified in the permit.

(3) A person who transports explosives without a valid permit commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

(4) Regulations may prescribe—

(a) the procedure and requirements required to issue a transport permit to the applicant; and

(b) the procedure for handling, packaging and safety measures during the transportation of explosives.

Blasting permit.

37. (1) A person shall not use explosives or a blasting material for purposes of blasting explosives unless the person has acquired requisite skills under the apprenticeship of a certified blaster and is in possession of a blasting permit for the categories set out in the Second Schedule.

(2) For purposes of subsection (1), a person who wishes to use explosives or a blasting material shall make an application to the Chief Inspector of Explosives in the prescribed form upon payment of the prescribed fees.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million or to imprisonment for a term not exceeding six months, or both.

(4) Regulations shall prescribe the requirements and procedures for the grant of a permit under this section.

Permit to purchase explosives.

38. (1) A person shall not purchase or otherwise acquire explosives except under the authority of, and in the type and quantities as may be authorized in a permit issued by an inspector.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings, or imprisonment for a term not exceeding ten years, or both.

Fireworks dealers permit.

39. (1) A person shall not trade in or sell fireworks unless the person is in possession of a fireworks dealer's permit.

(2) A person who wishes to trade in or sell fireworks shall make an application to the Chief Inspector of Explosives in the prescribed manner upon payment of the prescribed fees.

(3) A fireworks dealer's permit issued under this section shall be for trading in fireworks within the borders of Kenya.

(4) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding ten year, or to both.

Authority to display public fireworks.

40. (1) A person shall not hold a public display of fireworks without a display permit issued by an inspector in accordance with prescribed requirements or as specified in writing by the Chief Inspector of Explosives.

(2) Regulations shall prescribe the requirements and procedures for making the application and grant of the permit.

Application for a permit to possess or use authorized explosives.

41. (1) A person who wishes to use authorised explosives shall apply to the Chief Inspector of Explosives for a permit in the prescribed form upon payment of the prescribed fees.

(2) An application under subsection (1) shall be accompanied by—

- (a) a copy of the national identification card or passport of the applicant in the case of an applicant who is an individual;
- (b) a certificate of good conduct of the applicant or its directors and shareholders in case of a company;
- (c) a certified copy of a certificate of incorporation;
- (d) appointment letter of a blaster;
- (e) payment of prescribed fees; and
- (f) any other document or information as may be prescribed.

Non-transferability of permit.

42. A permit issued under this Part shall not be transferable to another person.

PART VI— CONSIDERATION OF APPLICATIONS FOR LICENSES AND PERMITS

Grant or denial of
licences or permits.

43. (1) Save for an application made under section 28, a person who wishes to obtain a licence or permit under this Act shall make an application to the Chief Inspector of Explosives in the manner prescribed by Regulations.

(2) The Chief Inspector of Explosives may, within ninety days in the case of a licence and thirty days in the case of permit—

- (a) grant a licence or permit accordingly, either without conditions or subject to such conditions as the Chief Inspector of Explosives may specify in writing and shall be accompanied by the prescribed fee; or
- (b) refuse to grant such licence or permit and shall give to the applicant reasons for the refusal in writing.

Mandatory conditions.

44. (1) All licences or permits issued by the Chief Inspector of Explosives shall include—

- (a) a requirement that the licensee shall comply with all applicable environmental, health and safety laws;
- (b) a stipulation that the licensee is subject to liability under tort and contract laws;
- (c) a requirement that all necessary fees associated with the licence or permit shall be paid on a timely basis; and
- (d) a requirement that the licence or permit may not be altered, revised or modified, except with the consent of the licensee.

Amendment of a
licence or permit.

45. (1) A holder of a licence or permit may make an application in the prescribed manner for amendment of the licence or permit, and the Chief Inspector of Explosives may, upon payment of the prescribed fee, amend the licence or permit and endorse it accordingly.

(2) Where the Chief Inspector of Explosives refuses to amend a licence or permit under subsection (1), the Chief Inspector of Explosives shall give the applicant reasons for the refusal in writing.

(3) A licence or permit amended under this section shall retain the existing expiry date.

Renewal of licences
and permits.

46. (1) An application for a renewal of a licence or permit shall be made at least ninety days before the expiry date of the existing licence or permit and shall be accompanied by the prescribed fee.

(2) A licence issued under this Act is renewable upon satisfying the Chief Inspector of Explosives that the terms and conditions of the expired licence were complied with.

(3) Where an application for the renewal of a licence or permit has been made in accordance with subsection (1), but has not been acted upon by the Directorate within the prescribed period, the licence, permit or certificate shall continue in force until the Directorate dispenses with the application for renewal and any renewal in such a case shall be deemed to have commenced from the day when the licence or permit would have expired before the renewal.

Factors to be
considered in
reviewing an
application.

47. (1) The Chief Inspector of Explosives shall, in granting or rejecting an application for a licence or permit, take into consideration—

- (a) the impact of the undertaking on the social, cultural or recreational life of the community;
- (b) compliance with relevant Government Policies including environmental, health, safety, planning, and any other relevant legislation or guidelines;
- (c) the location and land use of the undertaking;
- (d) the cost of the undertaking and financing arrangements;
- (e) the ability of the applicant to operate in a manner designed to protect the health and safety of employees, agents or contractors for which the licence or permit is required and other members of the public who would be affected by the undertaking; and
- (f) the technical and financial capability of the applicant and methods of financing the proposed explosives operations.

Suspension or
revocation of a licence
or permit.

48. (1) The Cabinet Secretary may suspend or revoke a licence to manufacture explosives if satisfied that the holder of a licence or permit Chief Inspector of Explosives may suspend or revoke a licence or permit issued under this Act or Regulations.

(2) Despite subsection (1), the Chief Inspector of Explosives may suspend or revoke any other licence or permit issued under this Act or Regulations.

(3) Without prejudice to the general effect of subsection (1) and (2), a licence may be suspended or revoked in the event that the holder of a licence or permit—

- (a) has contravened the provisions of the Act or Regulations thereto;
- (b) is in violation of the terms and conditions of the licence or permit;
- (c) is adjudged bankrupt; and
- (d) undertakes activities that pose a danger to public well-being, health and safety, including significant damage to the environment.

(3) Regulations may prescribe additional grounds for suspension or revocation of a licence and the procedure for suspending or revoking a licence.

Validity of licences or
permits.

49. Where a licence has been granted under this Act, and the execution of the explosives operations has not commenced at the expiry of six months from the date on which the licence was granted, or at the expiration of any extended period which the Chief Inspector of Explosives may allow, the licence shall cease to have effect.

Right of review of a
decision.

50. (1) A person aggrieved by the decision of the Chief Inspector of Explosives shall have the right to apply to the Chief Inspector of Explosives for a review of the decision.

(2) An application for review under subsection (1) shall be filed with the Chief Inspector of Explosives within thirty days of communication of the decision and shall state the factual, legal and procedural ground upon which it is based.

(3) The Chief Inspector of Explosives shall within sixty days of receipts of an application for review make a finding and communicate the finding to the applicant.

(4) An application for review under this section shall not have the effect of suspending the decision of the Chief Inspector of Explosives.

(5) The provisions of subsection (1), (2), (3) and (4) shall apply *mutatis mutandis* to the process of seeking review of a decision of the Cabinet Secretary under this Act.

(6) Nothing in this section stops an applicant from seeking judicial review of a decision in court.

PART VII — GENERAL PROVISIONS

Duration of licences.

51. (1) Save for a licence to establish or operate an explosives factory, every licence or permit issued under this Act or Regulations shall expire after twelve months from the date of issue unless it is renewed.

(2) Notwithstanding subsection (1), a permit may be issued for a period of less than one year.

Regulations.

52. (1) The Cabinet Secretary may make Regulations for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations in relation to the following matters

—

(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, other sites and premises;

(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 an authorized officer authorized;
- (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 this Act shall be lodged and determined;
- (k) the statistics which manufacturers, dealers and users of explosives may be called upon to supply;
- (l) fees payable for licences or permits, and any renewals or duplicates or amendments thereof;
- (m) the protection of life and property including the surrounding environment;
- (n) design, siting, construction, installation, operation, maintenance, modification, decommissioning, abandonment or disposal of an explosives factory or magazine; and
- (o) destruction of explosives.

Precautionary
measures.

53. (1) A person undertaking an activity involving explosives shall take reasonable measures to prevent harm to any person or property including measures to—

- (a) prevent accidental ignition;

- (b) limit the spread of any fire or the extent of any explosion; and
- (c) protect people, property, environment from the effects of any fire or explosion

(2) The measures contemplated in subsection (1) shall include—

- (a) limiting access to explosives or activities involving explosives to unauthorized persons; and
- (b) engaging agents, contractors or employees who have requisite knowledge and experience in handling explosives.

Development of
statutory instruments.

54. (1) The Cabinet Secretary may publish and disseminate manuals, codes or guidelines relating to matters relating to commercial explosives.

(2) In addition, the Cabinet Secretary shall issue guidelines relating to safety measures to be undertaken by a holder of a licence or permit within eighteen months upon commencement of this Act.

Report of explosive
incidents.

55. (1) Where any theft or loss of an explosive, accident by fire or explosion in connection with an explosives factory or magazine, explosives dealer's premises, store or while explosives are being transported occurs, the holder of a permit or license shall give notice of the accident in the prescribed form together with a statement of any loss of life, any personal injury or damage of property including any adverse environmental impact, to the Chief Inspector of Explosives, within twenty-four hours after occurrence of such incident.

(2) Where fire or accident occurs as mentioned in subsection (1), it shall be an offence for any person not to report such an incident or 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 the safety of persons or property, until permission for interference has been granted by an inspector or a police officer of the rank of an Inspector.

(3) 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 prior approval in writing of the Chief Inspector of Explosives.

(4) Whenever any accident results in death, loss of property including significant adverse environmental impact or both, the Chief Inspector of Explosives shall notify the Cabinet Secretary who shall suspend the license, and constitute an adhoc committee to investigate the matter and submit a report within seven days to the Cabinet Secretary.

(5) Where as a result of the investigation undertaken under subsection (4), there is sufficient evidence that such accident, explosion or fire was due to negligence, the Cabinet Secretary shall revoke the license.

(6) A person aggrieved by the decision of the Cabinet Secretary may appeal against the decision to a court of competent jurisdiction within thirty days from the date of receipt of such decision.

Insurance cover.

56. (1) A licensee or an agent appointed by a licensee who is undertaking explosives operations shall, with respect to those operations, maintain an insurance cover in respect of the attached risks for the health and safety of employees and contractors.

(2) The licensee shall, where required by the Chief Inspector of Explosives, furnish certified copies of certificates indicating the terms of policy, together with such other documents that shall demonstrate that the policy is valid, effective, appropriate and covers the prescribed risks.

Examination or testing
at border points.

57. The consignments of explosives imported or exported through border points or ports in Kenya shall be examined by an inspector and other authorized persons, and they may require such samples as are reasonably necessary for the purpose of analysis or test.

Offences by corporate
entities.

58. Where an offence provided for under this Act is committed by a legal entity, a director or the executive head of the legal entity is deemed to have committed the offence.

Attempts and
abatements.

59. A person who attempts to commit or aids and abets the commission of an offence under this Act or any Regulations made thereunder commits that offence and is liable, on conviction, to the same punishment as provided for the principal offender under this Act.

Maintenance of
records.

60. (1) The holder of a licence or permit shall—

(a) keep complete and accurate records of explosives operations in the prescribed manner.

- (b) submit reports on explosives operations in the form prescribed in guidelines.

Liability.

- 61.** A licensee or holder of permit shall be liable for any loss, damage or injury to any person or property resulting from a licensee works or operations, whether as a result of negligence or otherwise.

General penalty.

- 62.** A person who commits an offence under this Act or Regulations made under this Act for which no penalty is expressly provided, is liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

Consequential
amendment.
Cap. 306

- 63.** Section 20 (1) of the Mining Act, Cap. 306 is repealed.

Transitional
provisions.

- 64.** (1) Any register kept, permit, license, notice or authority issued or granted, which immediately before the commencement of this Act was in force or effect, shall continue in force and have effect within the specified period therein.

(2) A person who is an inspector immediately before the commencement of this Act, shall be deemed to be an inspector under this Act.

Repeal and savings.

- 65.** (1) The Explosives Act, Cap. 115 is hereby repealed.

(2) Any Regulations made pursuant to the repealed law under subsection (1) shall continue into force in so far as they are consistent with this Act.

FIRST SCHEDULE (s. 2)

	AUTHORIZED EXPLOSIVES	AUTHORISED 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.	Ammonium nitrate fuel oil (ANFO) Prilled Porous Ammonium Nitrate (PPAN) Booster Detonators(Electric, plain and Electronic) Detonating cords Dynamite Emulsion Fireworks of various kinds Fuse igniters Gelatinous explosives (such as blasting gelatine, gelignite, gelatine dynamite, etc.). Gunpowder Nitrogen based compound Nitro-cotton Nongelatinous explosives (such as dynamite, ligdyn, farmers' dynamite, etc.) Percussion caps Perforating cartridges for the oil industry Safety fuse Source cartridge Sporting powder. Danolite and instantaneous detonating fuse. Non-Electric detonators
	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.	Any other explosives as may be gazetted by the Cabinet Secretary.



SECOND SCHEDULE (s. 37)
CATEGORIES OF BLASTING PERMITS

Class 1- (General)

Blasting operations in quarries, open pit mines and above ground civil works.

Class 2- (Specialized)

Blasting operations in underground mines, shafts, tunnels, drifts and adits, demolitions, geophysical exploration, oil/water/gas wells services, destruction of explosives.

THIRD SCHEDULE (s. 64)

CONSEQUENTIAL AMENDMENT

Section 20 of the Mining Act, Cap. 306 is amended by repealing section 20 (1).

“(1) exercising regulatory administration and supervision over the use of commercial explosives in accordance with the Explosives Act (Cap. 115);”