

Jersey Law 1/1971

EXPLOSIVES (JERSEY) LAW, 1970,

CONFIRMED BY

Order of Her Majesty in Council

dated 17th December, 1970

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EXPLOSIVES (JERSEY) LAW, 1970.

A LAW to regulate the importation, manufacture, storage, conveyance, sale, purchase, transfer, acquisition and possession of explosives and for purposes connected therewith, sanctioned by Order of Her Majesty in Council of the

17th day of DECEMBER, 1970.

(Registered on the 22nd day of January, 1971).

STATES OF JERSEY.

The 17th day of March, 1970.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law : -

ARTICLE 1

INTERPRETATION

(1) In this Law, unless the context otherwise requires –

“the Committee” means the Defence Committee ;

“explosives” shall have such meaning as shall be prescribed, and shall include fireworks ;

“fireworks licence” means a licence issued under paragraph (1) of Article 7 ;

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“importation licence” means a licence issued under paragraph (1) of Article 2 ;

“licence” means a licence issued under this Law ;

“magazine licence” means a licence issued under paragraph (1) of Article 4 ;

“manufacturing licence” means a licence issued under paragraph (1) of Article 3 ;

“prescribe” means prescribe by order ;

“transfer licence” means a licence issued under paragraph (1) of Article 5.

(2) References in this Law to any enactment shall be construed as references to that enactment as amended by any subsequent enactment or to any other enactment repealing and re-enacting that enactment with or without further amendment.

ARTICLE 2

IMPORTATION OF EXPLOSIVES

(1) No person shall import any explosives into the Island except in accordance with a licence granted to him by the Committee.

(2) Before granting a licence under this Article, the Committee shall consult with the Harbours and Airport Committee to ensure that adequate arrangements have been made in relation to the disembarkation of the explosives to be imported.

(3) In considering whether to grant or refuse to grant an importation licence, the Committee shall have regard to the public safety and to the need or apparent need in the Island for the explosives which are to be imported.

(4) The Committee may attach such conditions as it thinks fit to the grant of an importation licence.

(5) Every importation licence shall specify the quantity of explosives to be imported and the date on which such importation is likely to occur.

(6) Subject to the provisions of this Law, the Committee may at any time where it considers it right and proper to do so cancel an importation licence or vary any conditions attached to such licence.

(7) Copies of every importation licence shall be sent by the Committee to the Chief Agent of the Impôts and to the Harbour Master.

(8) Any person to whom an importation licence has been granted shall maintain a register which shall contain the following details

—

- (a) the quantity and description of explosives imported ;
- (b) the quantity and description of explosives sold or transferred ;
- (c) the persons to whom explosives have been sold or transferred.

(9) Any officer of the Impôts may require any person possessing or having control of any explosives which is being or has been imported to furnish proof that the importation of the explosives is or was not unlawful by virtue of this Law, and if such proof is not furnished to the satisfaction of the officer concerned the explosives may be confiscated and may be stored temporarily pending arrangements being made for their disposal and, in such event, the provisions of Article 4 of this Law shall not apply to any such temporary place of storage.

ARTICLE 3

MANUFACTURE OF EXPLOSIVES

(1) No person shall, whether or not by way of business, manufacture any explosives except in accordance with a licence granted to him by the Committee.

(2) In considering whether to grant or refuse to grant a manufacturing licence, the Committee shall have regard to the public safety and, where applicable, to the need to conduct scientific experiments.

(3) The Committee may attach such conditions as it thinks fit to the grant of a manufacturing licence.

(4) Any manufacturing licence may authorize the manufacture of specified quantities of explosives, specified quantities of specified explosives or any quantity of specified explosives and may be limited in duration to such period as the Committee may determine.

(5) Subject to the provisions of this Law, the Committee may, at any time, where it considers it right and proper to do so, cancel a manufacturing licence or vary any conditions attached to such licence.

ARTICLE 4

STORAGE OF EXPLOSIVES

(1) No person shall keep or store any explosives except in a magazine duly licensed by the Committee.

(2) Every magazine licence shall expire on the thirty-first day of December next following the date on which it is granted and may be renewed annually on application being made to the Committee.

(3) In considering whether to grant or refuse to grant, or renew or refuse to renew a magazine licence, the Committee shall have regard to the public safety and to the prevention of unwarranted

explosions and, in particular, shall have regard to the situation and manner of construction of the magazine and the method of storage of explosives therein.

(4) The Committee may attach such conditions as it thinks fit to the grant or renewal of a magazine licence, including a condition as to the maximum quantity of explosives, or of specified explosives, which may be stored at any time in the magazine.

(5) Any person to whom a magazine licence has been granted shall maintain a register which shall contain the following details

- (a) the quantity and description of explosives purchased or acquired by him ;
- (b) the quantity and description of explosives used by him or any person employed by him ;
- (c) the quantity and description of explosives sold or transferred to any other person.

(6) Subject to the provisions of this Law, the Committee may, at any time, where it considers it right and proper to do so cancel a magazine licence or vary any conditions attached to such licence.

(7) The provisions of this Article shall not apply to the keeping or storage of fireworks in a place from which such fireworks are to be sold by retail.

ARTICLE 5

SALE OR TRANSFER OF EXPLOSIVES

(1) No person shall purchase, acquire or have in his possession any explosives unless he is the holder of a licence granted to him by the Committee authorizing such purchase, acquisition or possession.

(2) In considering whether to grant or refuse to grant a transfer licence, the Committee shall have regard to the public safety, to the character of the applicant for the transfer licence and to the use which is to be made of the explosives.

(3) The Committee may attach such conditions as it thinks fit to the grant of a transfer licence.

(4) Subject to the provisions of this Law, the Committee may at any time where it considers that it is right and proper to do so cancel a transfer licence or vary any conditions attached to such licence.

(5) No person shall sell or transfer any explosives to any person, other than a person specified in paragraph (6) of this Article, who does not hold a transfer licence authorizing him to purchase or acquire such explosives.

(6) The provisions of paragraph (1) of this Article shall not apply to any person who has been granted an importation licence or magazine licence.

(7) The provisions of this Article shall not apply to the sale, purchase, transfer, acquisition or possession of fireworks.

(8) Nothing in this Article shall be taken to prohibit the possession of any explosives by any person in the employ of the Crown or any administration of the States or any police officer, acting in the course of his duty as such.

ARTICLE 6

CONVEYANCE OF EXPLOSIVES

(1) The Committee may by order prescribe conditions to be complied with in relation to the conveyance of explosives and different provisions may be made for the conveyance of different explosives or the conveyance of different quantities of explosives.

(2) If any person acts in contravention of, or fails to comply with, any of the provisions of any order made under paragraph (1) of this Article, he shall, for each offence, be liable to a fine not exceeding one hundred pounds.

ARTICLE 7

FIREWORKS

(1) No person shall sell fireworks by retail except in accordance with a licence granted to him by the Connétable of the Parish in which the place from which the fireworks are sold is situated.

(2) Every fireworks licence shall expire on the thirty-first day of December next following the date on which it is granted and may be renewed annually on application being made to the appropriate Connétable.

(3) In considering whether to grant or refuse to grant, or renew a fireworks licence, a Connétable shall have regard to the public safety, to the fitness of the applicant to sell fireworks and to the suitability of the premises from which the fireworks are to be sold and shall consult with the Chief Officer of the Fire Service regarding the application generally.

(4) A Connétable may attach such conditions as he thinks fit to the grant or renewal of a fireworks licence.

(5) Subject to the provisions of this Law, a Connétable may, at any time, where he considers right and proper to do so, cancel a fireworks licence or vary any conditions attached to such licence.

ARTICLE 8

APPLICATION FORMS, LICENCES AND REGISTERS

Application forms, licences and registers required for the purposes of this Law shall be in such form and shall, in addition to the particulars required by virtue of any other provision of this Law to be

contained therein, contain such particulars as the Committee may from time to time determine.

ARTICLE 9

FEES

There shall be payable on the grant or renewal of a licence such fees as the Committee shall prescribe.

ARTICLE 10

NOTICE OF REFUSAL, CANCELLATION ETC

(1) The Committee or a Connétable as the case may be shall not –

- (a) refuse an application for a licence or the renewal of a licence; or
- (b) attach any condition to a licence, other than a condition attached on the grant or renewal of a licence or vary any such condition; or
- (c) cancel a licence;

unless it or he has given to the applicant or the holder of the licence, as the case may be, not less than seven days notice in writing, of the intention so to do and the reasons for so doing, and every such notice shall contain an intimation that if, within the period of such notice, the applicant or the holder of the licence informs the Committee or the Connétable in writing that he desires to do so, the Committee or the Connétable, before refusing or cancelling the licence or attaching or varying the condition, will afford him an opportunity of being heard in person or by a representative, against such refusal or cancellation or the attachment to the licence of such condition.

(2) If, after affording an applicant or a holder of a licence, as the case may be, an opportunity of being heard, the Committee or the

Connétable decides to refuse the application, to attach or vary the condition, or to cancel the licence, notice in writing of the decision shall be given to the applicant and, if so requested in writing by him, the Committee or the Connétable shall, within seven days of receiving such a request give to him a statement in writing of the reasons for the decision.

ARTICLE 11

RIGHT OF APPEAL

- (1) Any person aggrieved by –
 - (a) the refusal of an application for a licence or for the renewal of a licence;
 - (b) the variation of any condition attached to a licence; or
 - (c) the cancellation of a licence;

may, within the fifteen days next following the day on which notice of the decision of the Committee or the Connétable, was given to him under paragraph (2) of Article 10 of this Law or in the case of a condition attached on the grant or renewal of a licence, within fifteen days next following the day on which he was notified of the grant or renewal of the licence, appeal to the Inferior Number of the Royal Court, in term or in vacation, on the ground that the decision of the Committee or the Connétable was unreasonable having regard to all the circumstances of the case, and the decision of the Inferior Number of the Royal Court shall be final and without further appeal, but without prejudice to the right of the Inferior Number to refer the matter to the Superior Number of the Royal Court.

- (2) Where any person appeals against the cancellation of a licence or against a condition attaching to a licence, the cancellation of the licence, or, as the case may be, the condition attached, shall not take effect until the appeal is abandoned or determined.

ARTICLE 12

INSPECTION

(1) Any officer of the Committee may, subject to the production by him, if so required of evidence of his authority, enter and inspect any premises which are used for the keeping or storage of explosives, or which that officer has reasonable cause to believe contain explosives, and to require any person in occupation thereof or employed therein to furnish to him such information in relation to the premises or to any explosives therein as may be reasonably necessary for the enforcement of the provisions of this Law.

(2) Any officer of the Committee, any officer of the Impôts and any officer of the Harbours and Airport Committee may, subject to the production by him of evidence of his authority, board and inspect any ship or aircraft, or enter and inspect any premises, in a harbour or at an airport, which he has reasonable cause to believe contain explosives and to require any person in charge thereof, employed therein or in occupation thereof, to furnish to him such information in relation to the premises or to any explosives therein as may be reasonably necessary for the enforcement of the provisions of this Law.

(3) Every person who –

- (a) obstructs or impedes an officer in the exercise of any of the powers conferred by this Article; or
- (b) fails or refuses to give an officer on demand any information which it is in his power to give and which such officer is entitled to demand under this Law; or
- (c) wilfully gives to an officer information which is false or misleading in a material particular;

shall be liable to a fine not exceeding one hundred pounds.

ARTICLE 13

POWER TO GRANT EXEMPTIONS

(1) The Committee may, at its absolute discretion, grant exemption from the operation of any of the provisions of this Law, other than Article 7 thereof; and may attach conditions to any exemption so granted and any conditions so attached may at any time be varied or withdrawn.

(2) Where any condition attached to any exemption granted under this Article is contravened or not complied with, the exemption shall be of no effect.

ARTICLE 14

SURRENDER OF LICENCES

(1) Subject to the provisions of Articles 10 and 11 of this Law, any person to whom a licence has been granted shall deliver the licence to the Committee or to the Connétable as the case may be forthwith on notice being given to him of the cancellation of the licence or of the imposition of additional conditions on the licence.

(2) Any person who fails to deliver a licence to the Committee or to a Connétable in accordance with paragraph (1) of this Article shall be liable to a fine not exceeding twenty pounds and to a further fine not exceeding two pounds for each day during which the failure continues.

ARTICLE 15

ORDERS

(1) The Committee may by order make provision for the purpose of carrying this Law into effect and, in particular but without prejudice to the generality of the foregoing, for prescribing any matter which is to be prescribed under this Law.

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(2) The Subordinate Legislation (Jersey) Law, 1960,¹ shall apply to orders made under this Law.

ARTICLE 16

CODE OF REQUIREMENTS

(1) The Committee shall prepare a code comprising such requirements and directions as appear to it to be proper for the guidance of persons using or handling explosives and may from time to time revise the code in such manner as it thinks fit.

(2) The Committee shall cause the Code and any revision thereof to be printed and shall present the same to the States for their information.

ARTICLE 17

OFFENCES

If any person contravenes or fails to comply with any of the provisions of this Law for which no specific penalty is provided, or contravenes or fails to comply with any condition attached to any licence granted to him, he shall be liable to a fine not exceeding one thousand pounds.

ARTICLE 18

OFFENCES BY CORPORATION

Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

¹ Tome 1957-1960, page 519.

ARTICLE 19

NOTICES

(1) Any notice required by this Law to be given to a person being a body corporate shall be duly given if it is given or sent by post to the secretary or clerk of the body corporate.

(2) Subject to the provisions of paragraph (1) of this Article, any notice required by this Law to be given to any person may be given –

- (a) by delivering it to that person; or
- (b) by leaving it at his proper address; or
- (c) by registered post; or
- (d) by recorded delivery service.

(3) For the purposes of this Article and of Article 12 of the Interpretation (Jersey) Law, 1954,² the proper address of any person on whom any notice is to be given under this Law shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of the body corporate, and in any other case, be the last known address of the person in question.

ARTICLE 20

SAVING

The provisions of this Law are in addition to, and not in derogation of, the provisions of any other enactment.

² Tome 1954–1956, page 115.

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ARTICLE 21

REPEAL

The “Règlement (1968) sur les matières explosives”³ is hereby repealed.

ARTICLE 22

SHORT TITLE AND COMMENCEMENT

(1) This Law may be cited as the Explosives (Jersey) Law, 1970.

(2) This Law shall come into force on the first day of the third month next following that in which it is promulgated.

A.D. LE BROCCQ,

Greffier of the States.

³ R & O-5066.