ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER E70

EXPLOSIVES ACT

Showing the Law as at 15 December 2010

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates Act 7/2010, in force 1 November 2010

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER E70

EXPLOSIVES ACT

Showing the Law as at 15 December 2010

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates Act 7/2010, in force 1 November 2010

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

© Government of Anguilla

All rights reserved. No part of this publication may be reproduced in any form or by any means (including photocopying) without the written permission of the Government of Anguilla except as permitted by the Copyright Act or under the terms of a licence from the Government of Anguilla.

EXPLOSIVES ACT

TABLE OF CONTENTS

SECTION

1. Interpretation
2. Exemption

PART 1

GUNPOWDER

3. Appointment of magazines
4. General rules for magazines
5. Special rules for magazines

Storage

6. Storage in magazine

Importation, etc.

7. Only dealer may import
8. Regulations as to importation, exportation and transhipment
9. Amount in possession

Sale

10. Dealer only may sell
11. Licence to sell by wholesale
12. Licence to sell by retail
13. Form of licence
14. Occupier of unlicensed premises
15. Unlawful sale
16. Books to be in Form set out in Schedule
17. Prohibition of sale to children
18. Package for sale

Removal

19. Removal
20. Removal of over 5 pounds
21. Penalty on illegal removal
22. Application for a permit for removal
23. Granting of permit
24. Certificate for removal
25. Certificate book
26. Use and return of certificates
27. Absence of, or, improper certificate
28. Illegal use of certificate
29. Non-compliance with terms of certificate
30. General rules as to removal within Anguilla

PART 2

SAFETY CARTRIDGES

31. Importation
32. Sale
33. Storage
34. Books to be kept

PART 3

EXPLOSIVES GENERALLY

35. Importation and storage of explosives
36. Storage in Government magazine or approved place
37. Prohibition of manufacture, importation, sale, etc.
38. Contravening order as to manufacture
39. Contravening order as to importation, etc.

PART 4

MISCELLANEOUS PROVISIONS

40. Inspection of stock and books
41. Power to search for explosives
42. Seizure and detention of explosive liable to forfeiture
43. Inspection of wharf, vehicle, etc.
44. Payment for sample
45. Power to arrest offenders
46. Exemption in certain cases of carriers and owners and masters of ships
47. Recovery of penalties
48. Power in certain cases to award imprisonment unconditionally
49. Payment into Consolidated Fund
50. Emergency measures
51. Citation
SCHEDULE: Forms

EXPLOSIVES ACT

Interpretation

1. In this Act—

"certificate" means a certificate granted under this Act;

"Commissioned Officer" includes the Commissioner of Police, and a Superintendent or Assistant Superintendent of Police;

"constable" includes any member of the Police Force and any local constable;

"dealer in safety cartridges" means a licensed dealer in safety cartridges;

"explosive" means gunpowder, nitro glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and includes fog signals, fuses, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined but does not include fireworks;

"magazine" means a magazine duly appointed under this Act;

"permit" means a permit granted under this Act;

"prescribed" means prescribed by regulations made under this Act;

"safety cartridge" means cartridges for small arms, of which the case can be extracted from the small arm after firing, and which are so closed as to prevent any explosion in one cartridge being communicated to the other cartridges;

"vehicle" includes any wagon, cart, truck, barrow, tray, or other receptacle used or intended to be used for conveying goods or passengers by land;

"vessel" includes any aircraft, ship, boat, and any other description of vessel used in navigation, whether propelled by cars, sails, steam, or by any other method;

"wholesale dealer" and "retail dealer" mean respectively, a licensed wholesale dealer and a licensed retail dealer in explosives.

Exemption

2. Nothing contained in this Act shall apply to any explosive the property of Her Majesty, and held for the purposes of any of Her Majesty's Naval, Military, Air, or Local Forces, or held for the public service of Anguilla.

PART 1

GUNPOWDER

Appointment of magazines

3. (1) The Governor in Council may appoint by regulation any place or vessel to be a magazine for the reception of gunpowder.

(2) Such regulations shall, unless the magazine be a floating magazine, define the land forming the site of such magazine; and the land so defined, with every building thereon, for whatever purpose used or intended, shall be deemed to constitute a magazine.

(3) Each such magazine shall be under the charge of such person as the Governor may appoint for that purpose.

General rules for magazines

4. (1) In every magazine, the following general rules shall be observed—

(a) every building in which gunpowder is kept shall be used only for the keeping of gunpowder and receptacles for gunpowder, or tools or implements for work connected with the keeping of such gunpowder;

(b) the interior of every such building and all benches, shelves, and fittings in such building other than machinery shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel and the detaching of any grit, iron, steel, or similar substance in such manner as to come into contact with the gunpowder, and such interior, benches, shelves, and fittings shall be kept free from grit and otherwise clean;

(c) charcoal, whether ground or otherwise, and oiled cotton, oil rags, and oiled waste, and any articles whatever liable to spontaneous ignition, shall not be taken into any such building;

(d) no repairs shall be done to or in any part of such building except in accordance with the directions of the Governor;

(e) all tools and implements used in any repairs to or in any such building shall be made only of wood or copper or brass or some soft metal or material or shall be covered with some safe and suitable material;

(f) every person entering into any such building shall wear clothes without pockets, and shoes, if any, without any iron or steel therein, and no person shall introduce into any such building any lucifer matches or any artificial light (except luminous surfaces incapable of producing ignition) or any substance or article likely to cause explosion or fire, or any iron, steel or grit;

(g) no person shall smoke in any part of a magazine except in such part, if any, as may be allowed by the Governor;

(h) any vehicle in which gunpowder is conveyed to or from any magazine shall be constructed without any exposed iron or steel in the interior thereof, and shall contain only the gunpowder, and shall be closed or otherwise properly covered over and the gunpowder shall be so conveyed with all due diligence, and with such precautions and in such manner as will sufficiently guard against any accidental ignition;

(i) no person under the age of 16 years shall be employed in or enter any building containing gunpowder, except in the presence and under the supervision of some competent older person.

(2) The Governor may, by regulation, make such modifications in the foregoing general rules as may appear to him to be necessary for adapting the same to any floating magazine, and such modifications shall have effect as if they were contained in this section. There may be annexed to any breach of any regulations made in pursuance of this subsection such penalty not exceeding $960 for each offence as may be deemed just.

(3) In the event of any breach by any act or default of any of the foregoing general rules, the person committing such breach is liable to a fine of $3,840, and moreover, where such breach was not committed by the person having the charge of the magazine, such person is nevertheless, liable to a fine of $1,920 unless he proves to the satisfaction of the Magistrate by whom the case is heard that such breach happened without any negligence or failure in duty on his part.

Special rules for magazines

5. The person having the charge of any magazine may by regulation, with the sanction of the Governor, make special rules for the regulation of the persons employed in or about such magazine with a view to securing therein the observance of this Act and any regulations made thereunder, and the safety and proper discipline of the said persons and the safety of the public. There may be annexed to any breach of any special rule made in pursuance of this section such penalty not exceeding $960 for each offence as may be deemed just.

Storage

Storage in magazine

6. (1) Any gunpowder lawfully imported into Anguilla shall be taken to a magazine provided by the Government and may there remain without payment of rent or other charge for any period not exceeding 18 months.

(2) If any gunpowder remains in such magazine beyond the said period of 18 months, rent shall be paid in respect thereof at the prescribed rate, which shall not exceed 4¢ per pound per month. Such rent shall accrue due from day to day and shall be paid on the last day of successive periods of 6 months, the first of which periods shall commence at the expiration of the before-mentioned period of 18 months, or shall be paid in case any such gunpowder is removed or sold during any of the said periods of 6 months at the time of such removal or sale, and no gunpowder shall be removed until all rent and other charges due in respect thereof are paid.

(3) Where 6 months' rent in respect of any gunpowder is in arrear and unpaid, such gunpowder may be sold by the person in charge of the magazine in such manner and subject to such conditions as he thinks fit. Out of the purchase money arising from such sale, such person shall, in the first place, pay the charges and expenses of and incident to the sale, and, in the next place, all rents

due in respect of the gunpowder up to the time of sale, and the surplus, if any, he shall pay to the owner of the gunpowder on demand, if such demand is made at any time during the day of sale, but if demand is not made as aforesaid he shall pay such surplus to the Comptroller of Customs, who shall hold the same in trust for the owner, his executors, administrators, or assigns, but at the expiration of 6 years from the time of sale such surplus, if not applied for by some person or persons lawfully entitled thereto, shall be forfeited to the Crown for the use of Anguilla, and the rights of all other persons therein or thereto shall be extinguished.

Importation, etc.

Only dealer may import

7. (1) No person other than a wholesale dealer shall import gunpowder into Anguilla.

(2) Any person contravening the provisions of this section is liable to a fine of $9,600.

Regulations as to importation, exportation and transhipment

8. (1) The Governor may make regulations as to the having or keeping and as to the unloading and conveyance within the waters of Anguilla of gunpowder, and as to the landing of gunpowder and the subsequent conveyance thereof to a magazine, and as to the conveyance of gunpowder for exportation from a magazine to any wharf or shipping place and the subsequent conveyance and loading thereof within the waters of Anguilla, and as to the transhipping of gunpowder within such waters; and, in particular, regulations declaring or regulating all or any of the following matters, that is to say—

(a) the notice or warning to be given by vessels having on board, or conveying, loading, or unloading gunpowder;

(b) the navigation and place of mooring of such vessels;

(c) subject in cases in which the general rules with respect to packing contained in this Act are applicable to such general rules, the mode of stowing and keeping gunpowder on board any such vessel, and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder;

(d) the description, construction, fitting up, and licensing of the vessels or vehicles to be used for the conveyance of gunpowder, and the licensing and dress of the persons having charge thereof;

(e) prohibiting or subjecting to conditions and restrictions the keeping or conveyance of gunpowder with any explosive or any other articles or vehicles;

(f) the places and times at which gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time, or in one vessel or vehicle;

(g) the mode of and the precautions to be observed in conveying any gunpowder, and the loading or unloading of any vessel or vehicle conveying gunpowder, and the time during which gunpowder may be kept during such conveyance, loading or unloading;

(h) the times at which lights or fires are to be allowed or not allowed on board such vessels as before mentioned or at which a constable or other officer is to be on board them;

(i) the publication and supply of copies of the regulations;

(j) enforcing the observance of this Act; and

(k) generally, for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

(2) The penalties to be annexed to any breach or attempt to commit any breach of any such regulations may be all or any of the following penalties and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first or second or other subsequent offence, that is to say, penalties not exceeding $4,800 for each offence, and $960 for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found in the vessel or vehicle in respect of which, the breach of a regulation has taken place.

(3) In the event of any breach of a regulation under this section in the case of any vessel, vehicle, or gunpowder, whether there has or has not been any conviction for such breach, it shall be lawful for any Superintendent of Ports, officer, or person named in the regulations, or any person acting under the orders of such Superintendent of Ports, officer, or person, to cause such vessel, vehicle, or gunpowder, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the regulations, and all expenses incurred in such removal may be recovered in the same manner as a penalty under this section.

(4) Any person resisting such Superintendent of Ports, officer, or person in such removal is liable to the same penalties as a person is liable to for obstructing a constable in the execution of his duty.

Amount in possession

9. (1) Except gunpowder in the course of removal under and according to a permit, a wholesale dealer shall not have in his possession or custody for any purpose whatsoever more than 180 pounds of gunpowder.

(2) Except gunpowder in the course of removal under and according to a permit, a retail dealer shall not have in his possession or custody for any purpose whatsoever more than 30 pounds of gunpowder.

(3) Except gunpowder in the course of removal under and according to a permit or certificate, no person other than a wholesale dealer or a retail dealer shall have in his possession or custody for any purpose whatsoever more than 10 pounds of gunpowder.

(4) This section shall not apply to gunpowder in any vessel or magazine, or in the course of conveyance according to regulations made under this Act from or to any vessel, wharf, landing place, or shipping place, or to gunpowder kept or used for mining or quarrying purposes under a special permit from the Commissioner of Police or the Chief Engineer.

(5) Every person who contravenes the provisions of this section is liable to a fine of $9,600.

Sale

Dealer only may sell

10. (1) No person other than a wholesale or retail dealer shall sell gunpowder, or offer or expose gunpowder for sale.

(2) Every person who contravenes the provisions of this section is liable to a fine of $9,600.

Licence to sell by wholesale

11. (1) Every person who desires to sell gunpowder by wholesale shall take out a licence for that purpose.

(2) No such licence shall be issued unless the Commissioner of Police certifies in writing that there is, on the premises in respect of which the application for the licence is made, a sufficient fire-proof vault or other place which is capable of safely storing 180 pounds of gunpowder.

(3) Every such fire-proof vault or other place shall have the word "Gunpowder" painted or otherwise legibly marked on the door thereof.

(4) Every wholesale dealer shall keep all gunpowder on his premises in such vault or other place as aforesaid, but no more than 180 pounds of gunpowder shall be kept in such vault or other place.

(5) There shall be paid for every such licence annually the sum of $9.60.

(6) Every person who contravenes any of the provisions of this section is liable to a fine of $9,600.

Licence to sell by retail

12. (1) Every person who desires to sell gunpowder by retail shall, unless he is a wholesale dealer, take out a licence for that purpose.

(2) No such licence shall be issued unless the Commissioner of Police certifies in writing that the applicant for such licence has provided himself with a strong and suitable metal case lined with wood, which is capable of containing 30 pounds of gunpowder, is furnished with a lock and key and with handles for convenience of removal, and has the word "Gunpowder" painted or otherwise legibly marked thereon.

(3) Every such metal case shall be kept in such place as the Commissioner of Police shall appoint.

(4) It shall not be lawful for a retail dealer to sell gunpowder at any one time in any greater quantity than 30 pounds.

(5) Every retail dealer shall affix in some conspicuous place on the front of his licensed premises a board whereon shall be painted or otherwise legibly marked his name and the word "licensed retailer of explosives".

(6) There shall be paid for every such licence annually the sum of $4.80.

(7) Every person who contravenes any of the provisions of this section is liable to a fine of $4,800.

Form of licence

13. (1) Every licence issued under this Act shall be issued and signed by the Magistrate. Every such licence shall be in such form and shall contain such particulars as the Commissioner of Police shall from time to time think fit.

(2) Every such licence shall expire on the 31st of December next after it is granted.

Occupier of unlicensed premises

14. The occupier of any unlicensed premises on which gunpowder is sold or offered for sale, or if such premises are occupied by more than one person every occupier thereof, is liable to a fine of $5,600 unless he proves to the satisfaction of the Magistrate by whom the case is heard that he had no notice of such sale or offering or exposing for sale, or that, having such notice, he took all reasonable means to prevent such sale or offering or exposing for sale, and, as soon as he reasonably could, gave information thereof to a member of the Police Force.

Unlawful sale

15. Every person who—

(a) not being a wholesale dealer or a retail dealer, sells gunpowder, or offers or exposes the same for sale; or

(b) being a wholesale dealer or a retail dealer, sells gunpowder, or offers or exposes it for sale, on any premises other than those mentioned in his licence, is liable to a fine of $9,600.

Books to be in Form set out in Schedule

16. (1) Every wholesale dealer or retail dealer shall keep on his licensed premises a book to be called the Explosives Receipt Book according to Form A in the Schedule, and another book to be called the Explosives Delivery Book in Form B in the Schedule, and he shall, immediately on the receipt or delivery of any gunpowder, make the proper entries in the books according to the forms.

(2) Every wholesale dealer or retail dealer who omits to make any such entry, or makes any entry which shall be false in any particular, is liable to a fine of $9,600.

Prohibition of sale to children

17. Gunpowder shall not be sold to any child apparently under the age of 16 years, whether for his own use or the use of any other person. Any person who sells gunpowder contrary to this section is liable to a fine of $960.

Package for sale

18. (1) All gunpowder exceeding 1 pound in weight, when publicly exposed for sale or sold, shall be in a substantial case, canister, or other package, made and closed so as to prevent the gunpowder from escaping, and in every case the outermost package containing the gunpowder shall have affixed

the word "Gunpowder" in conspicuous characters, by means of a brand or securely attached label or other mark.

(2) If any gunpowder is sold or exposed for sale in contravention of this section, the person selling or exposing it for sale is liable to a fine of $960 and all or any part of the gunpowder so exposed for sale shall be forfeited.

Removal

Removal

19. No gunpowder shall be removed or conveyed except according to this Act or the regulations made thereunder.

Removal of over 5 pounds

20. No quantity of gunpowder exceeding 5 pounds shall be removed or conveyed except under and according to a permit granted by a Commissioned Officer or a certificate issued by a wholesale dealer or a retail dealer, but this section shall not apply to gunpowder in the course of conveyance according to regulations made under this Act from or to a magazine, or any vessel, wharf, landing place, or shipping place.

Penalty on illegal removal

21. Any person removing or conveying any gunpowder contrary to this Act or aiding or assisting in such removal or conveyance, is liable to a fine of $9,600, and any gunpowder removed or conveyed, or being removed or conveyed contrary to this Act shall be forfeited.

Application for a permit for removal

22. A permit for the removal of any gunpowder may be granted by a Commissioned Officer to any person being apparently above the age of 16 years upon an application in writing. Such application shall state the quantity of gunpowder intended to be removed, the places to which and the persons to whom it is to be distributed, the quantities to be left at each destination, the hours within which and the route by which the removal is intended to be effected, and the place or places, if any, where such gunpowder or any part thereof is intended to be deposited until the removal and distribution is completed.

Granting of permit

23. Subject to the provisions of this Act, a Commissioned Officer shall, within 24 hours (exclusive of Sundays and public holidays) after an application for a permit has been left at his office, grant a permit specifying the total quantity allowed to be removed, the places to which and the persons to whom the parcels making up such total quantity are to be distributed, the hours within which and the route by which the removal may be effected, and the place or places, if any, where the gunpowder or any part thereof may be deposited until the removal and distribution is completed, but—

(a) no permit shall authorise the having on the same premises or in the same vehicle more than 1,000 pounds of gunpowder; and

(b) a Commissioned Officer, if upon application for a permit he is satisfied that a permit according to the application cannot consistently with public safety be granted, may postpone or absolutely refuse the grant of such permit, or may grant the same with

any variations from the application and subject to any conditions which he considers proper for the protection of the public.

Certificate for removal

24. A certificate for the removal of any quantity of gunpowder exceeding 5 pounds and not exceeding 20 pounds from the licensed premises of any wholesale dealer or retail dealer may be granted by such wholesale dealer or retail dealer to any person apparently above the age of 16 years. Such certificate shall state the quantity of gunpowder intended to be removed, the places to which and the persons to whom it is to be delivered, and the hours within which and the route by which the removal is intended to be effected.

Certificate book

25. Every wholesale dealer or retail dealer in gunpowder shall, on request in writing, obtain from the Commissioner of Police a certificate book containing the prescribed forms of certificate and counterfoils, for which he shall give a receipt.

Use and return of certificates

26. (1) Every wholesale or retail dealer shall enter in one of such certificates and in its counterfoil the prescribed particulars, before sending out, delivering, or permitting the removal from his premises of any quantities of gunpowder exceeding 5 pounds, and shall deliver the certificate with the gunpowder to the person named in the certificate.

(2) He shall use the certificates in the order in which they are numbered in the certificate book.

(3) He shall keep the certificate book in his licensed premises open to inspection by any constable, and shall allow any constable to examine it and take any extract therefrom.

(4) He shall return the certificate book when it is exhausted or on request to the Commissioner of Police, who shall give a receipt for it.

Absence of, or, improper certificate

27. Any wholesale dealer or retail dealer who sends out or delivers or suffers to be removed from his licensed premises any quantity of gunpowder required to be accompanied by a certificate, without a certificate or accompanied by an inaccurate certificate, is liable to a fine of $1,920.

Illegal use of certificate

28. Any wholesale dealer or retail dealer who uses or suffers to be used any certificate taken from his certificate book except for the removal of gunpowder from his own licensed premises, or delivers or parts with any form of certificate without filling it up as required by this Act, is liable to a fine of $1,920.

Non-compliance with terms of certificate

29. Any person to whom a certificate for the removal of gunpowder is granted who fails to comply with the terms prescribed on such certificate is liable to a fine of $1,920.

General rules as to removal within Anguilla

30. (1) When any gunpowder is removed or conveyed from place to place in Anguilla, either wholly by land or partly by land and partly by water, the following general rules as to packing and other things shall be observed—

(a) the gunpowder, if not exceeding 30 pounds in quantity, shall be contained in a substantial case, bag, canister, or other package made and closed so as to prevent the gunpowder from escaping;

(b) the gunpowder, if exceeding 30 pounds in quantity, shall be divided into parcels, each of which shall comprise not more than 5 pounds, and be contained in a substantial case, bag, canister, or other package made and closed so as to prevent the gunpowder from escaping;

(c) the interior of every package shall be kept free from grit and otherwise clean;

(d) every package when actually used for the package of gunpowder shall not be used for any other purpose;

(e) there shall not be any iron or steel in the construction of any package, unless the same is effectively covered with tin, zinc, or other material;

(f) on the outside of every package there shall be affixed the word "Gunpowder" in conspicuous characters by means of a brand or securely attached label or other mark; and

(g) the gunpowder shall be in the charge and under the custody of some male person above the age of 16 years, who, when the quantity of gunpowder exceeds 5 pounds, shall have the permit for its removal in his possession, and shall produce and show such permit to any Commissioned Officer or constable who demands to see it.

(2) In the event of any breach, by any act or default, of any general rule in this section, the gunpowder in respect of which the breach is committed shall be forfeited and the person committing such breach is liable to a fine of $9,600.

(3) The Governor may make rules rescinding, altering, or adding to the general rules contained in this section, and the rules so made by the Governor shall have the same effect as if they were enacted in this section.

PART 2

SAFETY CARTRIDGES

Importation

31. (1) No person other than a wholesale dealer or a retail dealer shall import safety cartridges into Anguilla, but this enactment shall not apply to a person importing safety cartridges for his own use.

(2) Every person who contravenes the provisions of this section is liable to a fine of $4,800.

Sale

32. (1) No person other than a wholesale dealer or a retail dealer shall sell safety cartridges or shall offer or expose the same for sale.

(2) Every person who contravenes the provisions of this section is liable to a fine of $4,800.

Storage

33. (1) No dealer in safety cartridges shall keep safety cartridges in any vault or safe where gunpowder is kept.

(2) Every person who contravenes the provisions of this section is liable to a fine of $4,800.

Books to be kept

34. (1) Every wholesale dealer or retail dealer who shall deal in safety cartridges shall keep on his licensed premises a book to be called the Cartridge Receipt Book according to Form C in the Schedule, and another book to be called the Cartridge Delivery Book in Form D in the Schedule, and he shall, immediately on the receipt or delivery of any safety cartridges, make the proper entries in the said books according to the said forms.

(2) Every dealer in safety cartridges who shall omit to make any such entry, or shall make any entry which shall be false in any particular, is liable to a fine of $4,800.

PART 3

EXPLOSIVES GENERALLY

Importation and storage of explosives

35. (1) No person, other than a licensed wholesale dealer, shall import into Anguilla any explosive unless he first obtains a licence in that behalf from the Governor who may in his absolute discretion refuse or grant it subject to such terms and conditions as he may think fit, but such licence shall not be required for the importation of safety cartridges.

(2) Subject to the provisions contained in this Part, the provisions of Part 1 as to the importation, sale and removal of gunpowder shall *mutatis mutandis* apply to every other explosive except safety cartridges.

(3) Any person contravening the provisions of this section or the conditions of a licence issued hereunder is liable to a fine of $9,600.

Storage in Government magazine or approved place

36. (1) It shall be lawful for the Governor to provide a magazine in which any description of explosive may be stored, and every person importing or keeping any explosive under a licence issued under this Part shall store such explosive either in the Government magazine or in a building or place approved by the Governor.

(2) The Governor in Council may make regulations relating to—

(a) the condition under which explosives may be stored in such magazine;

(b) the removal of explosives from one place to any other place;

(c) the rent to be paid and the times at, and the manner in which, such rent shall be payable or recoverable;

(d) the sale or disposal of explosives in respect of which any rent may be in arrears, and the manner in which the proceeds of any such sale shall be dealt with.

(3) There may be annexed to any breach of any regulations made in pursuance of this section such penalty not exceeding $960 for each breach as may be deemed just.

Prohibition of manufacture, importation, sale, etc.

37. The Governor in Council may, by regulation, prohibit absolutely, or subject to conditions or restrictions, the manufacture, keeping, importation, conveyance, and sale or any of them of any explosive which is of so dangerous a character that, in the judgment of the Governor in Council, it is expedient for the public safety to make such order.

Contravening order as to manufacture

38. If any explosive is manufactured in contravention of any such order, all or any part or ingredient of such explosive which may be found either in or about any place, or in the possession or under the control of any person convicted under this section, may be forfeited together with all machinery, implements, and utensils used in such manufacture; and the person so manufacturing is guilty of an offence and liable, on indictment, to a fine of $96,000, or to imprisonment for 10 years.

Contravening order as to importation, etc.

39. If any explosive is imported, kept, conveyed, or sold in contravention of any such order—

(a) all or any part of such explosive may be forfeited; and

(b) every person concerned in importing or bringing into Anguilla or the waters thereof any such explosive, whether the same be unshipped or not, and every person who unships or conveys or is in any way concerned in the unshipping or conveying of any such explosive, or who knowingly harbours, keeps, or conceals, or knowingly permits or suffers or causes or procures to be harboured, kept, or concealed, any such explosive, or to whose possession any such explosive knowingly comes, is guilty of an offence and liable, on indictment, to a fine of $96,000, and to imprisonment for 10 years, but this section shall not extend to any such explosive imported or unshipped under and according to a licence granted by the Governor.

PART 4

MISCELLANEOUS PROVISIONS

Inspection of stock and books

40. (1) It shall be lawful for any member of the Police Force, at any time when such premises are open for business, to enter the premises of any wholesale or retail dealer and to inspect all explosives in the stock of such dealer and the receptacles in which the same may be stored, and also to inspect the books kept by any such dealer under this Act, and to take a copy of any entries in any of such books.

(2) Any such dealer who refuses to allow such inspection to be made or copy to be taken, or obstructs any member of the Police Force while making such inspection or taking such copy, is liable to a fine of $4,800.

(3) Any wholesale or retail dealer whose stock of explosives does not correspond with the amount as shown by the entries in the books kept by such dealer under this Act is, in the absence of any reasonable explanation by such dealer, liable to a fine of $4,800.

Power to search for explosives

41. (1) Where any officer of Customs or constable has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a vessel or vehicle), or that any explosive is in any such place in contravention of any order of the Governor, or that the terms and conditions of any such order are not duly observed in any such place, such officer or constable may apply to the Magistrate for a warrant (which warrant the Magistrate shall grant, upon reasonable ground being assigned upon oath) to search the place and every part thereof, and on obtaining such warrant and on producing it, if demanded, such officer or constable may enter at any time, and, if need be, by force, and as well on Sundays as on other days, the place and every part thereof, and examine the same and search for explosives therein, and take samples of any explosive and ingredient of an explosive therein, and any substance reasonably supposed to be an ingredient of an explosive which may be found therein.

(2) Every person who, by himself or by any other person, fails to admit into any place occupied by or under the control of such person any officer of Customs or constable demanding to enter in pursuance of this section, or in any way obstructs such officer or constable in the execution of his duty under this section, is liable to a fine of $9,600, and is also liable to forfeit all explosives and ingredients thereof which are, at the time of the offence, in his possession or under his control at the place.

Seizure and detention of explosive liable to forfeiture

42. Where any officer of Customs or constable as aforesaid has reasonable cause to believe that any explosive, or ingredient of an explosive, or substance found by him is liable to be forfeited under this Act, he may seize and detain it until the Magistrate has determined whether it is or is not so liable to be forfeited, and with respect thereto the following provisions shall have effect—

(a) the officer of Customs or constable seizing may either require the occupier of the place in which it was seized (whether a building or not, or a vessel or vehicle) to detain the same in such place or in any place under the control of such occupier, or may remove it in such manner and to such place as will, in his opinion, least endanger

the public safety and there detain it, and may, where the matter is urgent and fraught with serious public danger, if authorised in writing by the Comptroller of Customs, or an officer of police, cause the same to be destroyed or otherwise rendered harmless; but before destroying or rendering harmless the same, he shall take and keep a sample thereof, and shall, if required, give a portion of the sample to the person owning the explosive or having the same under his control at the time of the seizure; and any such occupier who by himself or by any other person, fails to keep the same when he is required in pursuance of this section to detain it, and any such occupier or other person who, except with the authority of the officer or constable seizing the same, or of the Comptroller of Customs, or an officer of police, or, in the case of emergency, for the purpose of preventing explosion or fire, removes, alters, or in any way tampers or deals with the same while so detained, is liable to a fine of $9,600, and shall also be liable to forfeit all explosives and ingredients thereof which are, at the time of the offence, in his possession or under his control at the place;

(b) the proceedings before the Magistrate for determining whether the same is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure;

(c) the receptacles containing the same may be seized, detained, and removed in like manner as the contents thereof;

(d) the officer of Customs or constable seizing the same may use, for the purposes of the removal and detention thereof, any vessel or vehicle in which the same was seized, and any tug, tender, engine, tackle, beasts, and accoutrements belonging to or drawing, or provided for drawing, such vessel or vehicle, and shall pay to the owner a reasonable compensation for such use, to be determined, in case of dispute, by the Magistrate, and to be recovered in like manner as any penalty under this Act;

(e) the same shall, so far as practicable, be kept and conveyed in accordance with this Act, and with all due precaution to prevent accidents, but the person seizing, removing, detaining, keeping, or conveying the same shall not be liable to any penalty, punishment, or forfeiture under this or any other Act, or to any damages for keeping or conveying the same, so that he uses all such due precautions as aforesaid; and

(f) the officer of Customs or constable seizing or dealing with the same in pursuance of this section shall not be liable to damages or otherwise in respect of such seizure or dealing or any act incidental to or consequential thereon, unless it is proved that he made such seizure without reasonable cause or that he caused damage to the article seized by some wilful neglect or default.

Inspection of wharf, vehicle, etc.

43. (1) The Comptroller of Customs, any Commissioned Officer, and any officer appointed by the Governor for the purposes of this Act or of any rules or regulations or order of the Governor made under this Act, may, for the purpose of ascertaining whether the provisions of this Act or of such rules or regulations, or the terms and conditions of any such order, with respect to the conveyance, loading, unloading, and importation of an explosive are complied with, enter, inspect, and examine at any time, and as well on Sundays as on other days, the wharf, vehicle, or vessel of any carrier or other person who conveys goods for hire, or of the occupier of any factory, warehouse, or store, or of the importer of any explosive, on or in which wharf, vehicle, or vessel he has reasonable cause to suppose

an explosive to be for the purpose or in course of conveyance, but so as not unnecessarily to obstruct the work or business of any such carrier, person, occupier, or importer.

(2) Any such officer, if he finds any offence being committed against this Act, or against any rules or regulations or order of the Governor made under this Act, on or in any such wharf, vehicle, or vessel, or on any public wharf, may seize and detain or remove the vehicle or vessel, or the explosive, in such manner and with such precautions as may appear to him to be necessary to prevent any danger to the public, and may seize and detain the explosive, as if it were liable to forfeiture.

(3) Any such officer, and any officer of Customs, or constable, who has reasonable cause to believe that any offence against this Act, or against any rules or regulations or order of the Governor made under this Act, is being committed in respect of any vehicle or any vessel conveying, loading, or unloading any explosive, and that the case is one of emergency, and that the delay in obtaining a warrant will be likely to endanger life, may stop and enter, inspect, and examine such vehicle or vessel, and, by detention or removal thereof or otherwise take such precautions as may be reasonably necessary for preventing such danger, in like manner as if such explosive was liable to forfeiture.

(4) Every such officer or constable shall, for all the purposes of this section, have the same powers and be in the same position as if he were authorised by a search warrant granted under this Act, and every person who fails to admit or obstructs such officer or constable is liable to the same penalty as a person who fails to admit or obstructs an officer or constable so authorised as aforesaid.

Payment for sample

44. Where any officer or constable in pursuance of this Act takes a sample of any explosive, ingredient, or substance, he shall pay for or tender payment for it to such an amount as he considers to be the market value thereof, and the occupier of the place in which, or the owner of the bulk from which, the sample was taken may recover any excess of the real value over the amount so paid or tendered from the officer or constable taking the sample, as a civil debt.

Power to arrest offenders

45. Any person who is found committing any act for which he is liable to a penalty under this Act or under any regulations made thereunder and which tends to cause explosion or fire in or about any house, store, railway, harbour, or wharf, or in or about any sugar, cotton or any other plantation, or any building thereon, or in or about any vehicle or vessel, may be apprehended without a warrant by any constable, or by the occupier, or the agent or servant of, or other person authorised by, the occupier of such house, store, plantation, or building, or by any officer of Customs, or by any Superintendent of Ports, or person authorised by any Superintendent of Ports and be removed from the place at which he was arrested, and conveyed as soon as conveniently may be before the Magistrate to be dealt with according to law.

Exemption in certain cases of carriers and owners and masters of ships

46. When a carrier or owner or master of a vessel is prevented from complying with this Act or any regulation made thereunder by the wilful act, neglect, or default of the consignor or consignee of the explosive or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, such consignor, consignee, or other person who is guilty of such wilful act, neglect, default, or refusal is liable to the same penalty to which the carrier, owner, or master is liable for a breach of this Act, and his conviction shall exempt the carrier, owner, or master from any penalty or forfeiture under this Act, or under such regulation.

Recovery of penalties

47. Every act or default in respect of which a fine not exceeding $9,600 is imposed by this Act or by any regulation made thereunder shall be an offence punishable on summary conviction.

Power in certain cases to award imprisonment unconditionally

48. Where any person is guilty of an offence under this Act or any regulations or rules made thereunder which, in the opinion of the Magistrate who tries the case, was reasonably calculated to endanger the safety of or cause serious personal injury to any person or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person is liable, if the Magistrate is of the opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment for 6 months.

Payment into Consolidated Fund

49. All money received under this Act, whether by way of penalty or otherwise, shall be paid into the Consolidated Fund for the use of Anguilla.

(Act 7/2010, s. 26)

Emergency measures

50. If at any time in the opinion of the Governor in Council an emergency has arisen in which it is expedient for the safety of the public peace that Her Majesty's Government should have control over the possession, sale, disposal, or use of any explosive, the Governor in Council may, during the continuance of such emergency, make such orders as may appear desirable with respect to such possession, sale, disposal, or use of any explosive, and may order any explosive to be delivered up on demand to such person or persons as the Governor may appoint.

Citation

51. This Act may be cited as the Explosives Act, Revised Statutes of Anguilla, Chapter E70.

———————

SCHEDULE

FORMS

(Sections 16 and 34)

FORM A

(Section 16)

GUNPOWDER RECEIPT BOOK

Date of receipt	Name of person or firm from whom received; or if imported, name of person or firm from whom and of ship by which imported	Number and description of packages	Quantity

_____

FORM B

(Section 16)

GUNPOWDER DELIVERY BOOK

Date of delivery	Name and address of person or firm to whom sold or to whom delivery is to be made	Name and address of carrier or person to whom delivered	Number and description of packages	Quantity

_____

FORM C

(Section 34)

CARTRIDGE RECEIPT BOOK

Date of receipt	Name and address of person or firm from whom received or imported	Name and line of ship by which imported	Number and description of packages	Nature, calibre and description of cartridges	No. of cartridges of each kind

_____

FORM D

(Section 34)

CARTRIDGE DELIVERY BOOK

Date of delivery	Name and address of person or firm to whom sold or to whom delivery is to be made.	Name and address of carrier or person to whom delivered	Nature, calibre and description of cartridges	Number of cartridges of each kind

_____