CHAPTER 33

EXPLOSIVES ORDINANCE

To amend and consolidate the laws relating to explosives.

15th July, 1904

ORDINANCE XII of 1904, as amended by Ordinances IV of 1920 and XL of 1940; Acts XXXV of 1949 and XXVII of 1955; Ordinances XVIII of 1960, XVII of 1961 and XXV of 1962; Legal Notices 4 of 1963 and 46 of 1965; Acts LVIII of 1974, XXII of 1976, XI of 1977, XLIX of 1981, XIII of 1983, VIII of 1990 and III of 2002; Legal Notice 407 of 2007; and Acts VIII of 2008, XX of 2012, IX of 2018 and XVII and XXI of 2020 and XVI of 2022 and XXXV of 2023.

ARRANGEMENT OF ORDINANCE

		Articles
	Short Title and Interpretation	1-2
Part I	Explosives	3-26
Part II	Penal Provisions	27-34
Part III	General Provisions	35-49
	Transitory Provisions	50

Short title.

1. The short title of this Ordinance is the Explosives Ordinance.

Interpretation.
Amended by:
IV. 1920.2;
XLIX. 1981.4;
VIII. 2008.2.

2. In this Ordinance -

"Commissioner of Police" means the officer holding that appointment, as well as any person having an express or implied authority to act for the said Commissioner in carrying into effect the provisions of this Ordinance;

the word "explosive" means -

gunpowder, nitroglycerine, dynamite, gun-cotton, blasting-powders, fulminate of mercury or of other metals, coloured fires, chlorate of potash, chlorate of barium, and every other substance whether similar to those above mentioned or not, used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect; and includes fog-signals, fireworks, fuses, rockets, percussion caps for mines, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as above defined;

"factory" means any building or premises or any part thereof wherein explosives are manufactured or wherein any process of such manufacture is carried out;

the words "fine" (*ammenda* or *multa*), "detention" and "imprisonment" indicate the punishments referred to under those names in the Criminal Code;

Cap. 9.

the word "gunpowder", when used alone, does not include any other explosive;

"inhabited place" means any place in which there is an aggregation of houses inhabited, or capable of being inhabited, by more than one hundred persons;

"sale" includes any exchange of things and any *datio in solutum*;

"shop" means any place in which goods are sold, or in which a trade or an art is carried on;

"street" means any street, road, lane, square, or other public thoroughfare, even though it forms part of any fortification.

PART I

EXPLOSIVES

Licence for the introduction of explosives into Malta. Conditions.
Amended by:
VIII. 2008.3.

3. (1) No person shall introduce into Malta gunpowder or other explosives or establish or keep any gunpowder factory or firework factory or any other factory in which explosive powders or other explosives are manufactured, without a licence from the Commissioner of Police. Such licence shall not be granted unless the necessary precautions for protecting life and property have been taken.

Manufacture of explosives.

(2) No person shall manufacture gunpowder or carry out any process of such manufacture except at a gunpowder factory

licensed under this Ordinance, nor shall any person manufacture fireworks, or explosive powders or other explosives except at a firework factory, or other factory for the manufacture of explosive powders, or other explosives, licensed under this Ordinance:

Provided that nothing in this article shall apply to the making of a small quantity of gunpowder or other explosives for the purpose of chemical experiment, and not for other use or for sale:

Provided further that upon a reasonable suspicion that a serious breach of the provisions of this Ordinance has occurred, the Commissioner of Police shall have the right to close a gunpowder factory or any other similar factory for a period not exceeding two weeks, so however that if at any time criminal proceedings are commenced relating to such factory for the breach of any provision of this Ordinance, the court may, pending the proceedings, of its own motion or at the request of the prosecution, order such factory to be closed until the termination of the proceedings by a final judgment.

Precautions for the establishment of gunpowder factories or similar factories.
Amended by: IV. 1920.3; XL. 1940.4(1); XVIII. 1960.2; XX. 2012.2; IX.2018.2; XVII.2020.2.

4. The following precautions shall be required to be observed to the satisfaction of the Commissioner of Police in every case in which a gunpowder factory or other similar factory is established:

(*a*) that the factory shall be at a distance of not less than one hundred and eighty-three metres from -

(i) any inhabited place;

(ii) any street which is used regularly for the passage of motor vehicles not being a rural street or a street or path used principally to provide access to fields or a street or path used principally to provide access to a gunpowder factory; or

(iii) any other street within one hundred and eighty-three metres of which it would not be advisable, in the opinion of the Commissioner of Police after consultation with the Planning Authority and the Authority for Transport in Malta, to establish such a factory:

The distance of one hundred and eighty three metres referred to in this paragraph shall always be measured from the centre of the magazine;

(*b*) that the factory shall be surrounded by a wall or other solid fence of a height of not less than four metres and provided with an efficient lightning conductor:

Provided that no such wall or any other solid fence shall be required for fireworks factories;

(*c*) that there shall be a magazine for the storage of gunpowder or other explosives at a sufficient distance from the factory buildings;

(*d*) that separate buildings at a convenient distance from each other shall be used for each process of manufacture;

(*e*) that no work shall be done at night or by artificial light or during a thunderstorm or when the state of the weather is such as to give reason to believe that a thunderstorm is imminent;

(*f*) that any gunpowder or other explosives which are manufactured shall be removed to the magazine within twenty-four hours:

Provided that, independently of the conditions above-mentioned, the Commissioner of Police may, whether of his own accord as well as on the recommendations specifically made by the Inspectorate Committee, impose different and onerous conditions, among which that the explosives be stored in a separate and distinct place from the one wherein they are prepared, as well as that the factory schedules its tasks according to the manner in which the Commissioner of Police may prescribe, as to those amounts, times and necessary methods, and that by the 15th December of each year, a detailed plan of action be submitted for the following year.

Quantity of explosives allowed.
Amended by: III. 2002.160.

5. No gunpowder or other explosive shall be kept in the premises in respect of which a licence under article 3 has been granted, in a greater quantity than is specified in the licence; such quantity shall in no case exceed that quantity as may be prescribed by regulations made by the Minister responsible for the police.

Dynamite, gun-cotton, fulminates, etc.
Amended by: IV. 1920.4; XXXV. 1949.2; XXVII. 1955.2.

6. (1) No quantity of dynamite, gun-cotton, fulminate of mercury or other fulminates, picrates, substances having nitroglycerine as their principal component part, or other substances which, when mixed together or alone, may produce effects similar to those produced by dynamite or any of the substances mentioned in article 2, shall be used, sent, or delivered by the manufacturers or retailers except to public authorities, or to persons authorised by a permit signed by the Commissioner of Police to make purchases thereof in such quantities as are prescribed in the permit.

(2) In any such case, the manufacturer or retailer shall, at the time of the sale or delivery, state on the permit the quality and the quantity of the substances sold or delivered, and shall date and sign such statement.

Cap. 10.

(3) Persons holding a licence from the Police under article 205 of the Code of Police Laws to carry a shotgun for the purpose of pursuing or killing game may purchase sporting cartridges and sporting powder for filling cartridges for the said shotgun from retailers on presentation of the above-mentioned licence, and, in such cases, the retailer shall enter, date and sign the statement required by subarticle (2) on the reverse of the licence, and no other permit shall be required for such sale or purchase.

Issue of permit.
Amended by: XXXV. 1949.2.

7. (1) The permit mentioned in the last preceding article shall not be granted unless the person applying for the same proves that he requires to use explosives in the exercise of his profession, art or trade.

(2) Any person to whom explosives are sold or delivered by

virtue of the said permit shall take all due precaution for preventing other persons from having access to such explosives, and shall not sell, transfer, or deliver such explosives, without a licence from the Police.

Entries in register. *Amended by: XX. 2012.3.*

8. (1) Manufacturers of or dealers in the substances mentioned in article 3 shall enter in a register the quantity and nature of the explosives which they manufacture, acquire or sell, and the name, surname, occupation, nationality, and place of residence of and other particulars relating to the persons to whom the sale or the delivery is made:

Provided that fireworks factories shall also keep such registers as may be prescribed by regulations made by the Minister responsible for the police.

Pages of register to be numbered and signed by Police.

(2) The register shall, before any entry is made therein, be numbered and signed on each page by the Police, who shall also note on the last page the number of pages which the register contains.

Powers of Police.

(3) The said register shall, at all times, be open to inspection by the Police who shall also have the power to inspect the establishments and the magazines wherein explosives are stored in order to ascertain whether the amount shown by the entries in the register corresponds to the amount of explosive so stored.

No sale or storage of gunpowder or explosives is permitted without licence. *Amended by: IV. 1920.5.*

9. (1) No person shall keep for sale, or store gunpowder or explosives without a licence from the Commissioner of Police.

(2) Such licence shall be granted subject to the condition that the seller shall report to the Police any sale made by him as well as the name and address of the purchaser.

Validity of licence. *Amended by: XXXV. 1949.3.*

10. (1) Such licence shall be valid only for the person named in the licence and in respect of the place appointed therein.

(2) The amount of gunpowder and the amount and nature of the explosives that may be kept in the place appointed in the licence shall be specified in the licence.

Shops for the retail of explosives. *Amended by: IV. 1920.6.*

11. (1) With the exception of gunpowder, no explosives containing nitroglycerine, picrates, fulminates, chlorate of potash or similar explosives, or explosives the composition of which is not known or is not clearly determined, shall be kept in shops licensed for the retail of explosives.

(2) Nothing in this article shall affect the provisions of article 14.

Shops for the sale of gunpowder in inhabited places. *Amended by: IV. 1920.7.*

12. (1) The Commissioner of Police shall not grant a licence for the keeping of more than seven kilogrammes of gunpowder in shops in inhabited places, if the gunpowder is kept loose in boxes, bags or barrels, or is contained in closed packages, or cardboard boxes or similar receptacles; but he may grant a licence for the keeping of gunpowder in quantities up to twenty-three kilogrammes, if the gunpowder is kept completely closed in metal cases or other receptacles equally suitable for its keeping, provided

that the gunpowder be kept in detached premises not used as a dwelling-house, and be, if practicable, distributed in lots in different parts of the premises.

(2) It shall be in the discretion of the Commissioner of Police to determine in respect of which shops the licence may be granted.

Shops not situated in inhabited places.

13. In the case of shops not situate in an inhabited place the Commissioner of Police may grant a licence for the keeping of double the quantities mentioned in the last preceding article.

Loaded cartridges.

14. The Commissioner of Police may authorize the storage of loaded cartridges containing not more than twelve kilogrammes, net weight, of explosive substances in retail shops situate in an inhabited place, and not more than twenty-three kilogrammes in retail shops not situate in an inhabited place.

Percussion caps, empty cartridge cases with caps and fuses.

15. Percussion caps and empty cartridge cases with caps and fuses may be kept in any place without any restriction as to quantity; but if gunpowder or other explosives be also stored in the premises, dealers shall keep the percussion caps, empty cartridge cases and fuses separate therefrom, by means of partitions.

Licence to keep or remove explosives. *Amended by: IV. 1920.8; XL. 1940.4* (*2*).

16. (*Deleted by Act XX. 2012.4*).

Keeping of explosives.

17. Explosives or very inflammable substances shall in all cases be kept in fire-proof receptacles and at a safe distance from gunpowder or from any receptacle in which gunpowder is kept.

Gunpowder how kept.

18. All gunpowder exceeding five hundred grammes in weight shall be kept in a substantial case, bag, canister or other receptacle made and closed so as to prevent the gunpowder from escaping.

Sale of gunpowder in street or to children prohibited. *Amended by: IV. 1920.9: XX. 2012.5.*

19. No person shall sell or expose for sale gunpowder or other explosives in any street, nor shall any person sell or give gunpowder or other explosives to any person not in possession of a licence as prescribed under this Ordinance or under regulations made under this Ordinance.

Sale of gunpowder to be in closed packages labelled.

20. No person shall sell gunpowder exceeding five hundred grammes in weight, except in a substantial case, bag, canister or other receptacle made and closed so as to prevent the gunpowder from escaping, and with the words "*Gunpowder*/*Porvli*" in conspicuous characters affixed to the outermost receptacle containing such gunpowder.

Rules as to packing for conveyance of gunpowder.

21. The following rules shall be observed in the conveyance of gunpowder:

(*a*) gunpowder in quantities not exceeding two kilogrammes shall be conveyed in receptacles of the description mentioned in article 18;

(*b*) gunpowder in quantities exceeding two kilogrammes shall be conveyed either in a single package or a double package.

A single package shall be a box, barrel, or other case

of such strength, construction and character that it will not be broken or accidentally opened or become defective or insecure whilst being conveyed, and will not allow the gunpowder to escape. If the gunpowder is conveyed in a double package, the inner package shall be a substantial case, bag, canister or other receptacle made and closed so as to prevent the gunpowder from escaping, and the outer package shall be a box, barrel or other receptacle of wood or metal or other solid material, of such strength, construction and character that it will not be broken or accidentally opened or become defective or insecure whilst being conveyed and will not allow the gunpowder to escape;

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

(*d*) no other substance shall be put in the same package containing the gunpowder;

(*e*) no iron or steel shall be used in the construction of any such package, unless the same is covered with tin, zinc or other suitable material so as effectually to prevent the exposure of such iron or steel;

(*f*) the amount of gunpowder in any single package, or, if there is a double package, in any one outer package, shall not exceed forty-five kilogrammes;

(*g*) on every outer package there shall be affixed the words "*Gunpowder*/*Porvli*" in conspicuous characters.

Power of Minister responsible for the Police to make regulations. *Substituted by: XXVII. 1955.3. Amended by: L.N. 4 of 1963; XI. 1977.2; XLIX. 1981.6; XIII. 1983.5; L.N. 407 of 2007; IX.2018.3; XXXV.2023.9.*

22. (1) The Minister responsible for the Police may make, and, when made, amend, repeal or re-enact regulations for the better implementation of the provisions of this Ordinance, for the removal of difficulties in the implementation of the provisions of this Ordinance and for the control, restriction or prohibition of the importation, manufacture, preparation, storage, keeping, conveyance, handling, distribution and use of explosives, and in particular but without prejudice to the generality of the foregoing power, may make regulations for all or any of the following purposes:

(*a*) for the construction, lay-out, materials and internal and external fittings of gunpowder factories, fireworks factories, or other factories, magazines, store or shops, whether ashore or afloat, in which explosives are prepared, kept, or sold, as well as for any other precautions to be observed in such places;

(*b*) for the qualifications as to age, health, previous conduct, technical ability, and such other respects as may be prescribed in the regulations, and for the obligations of persons who own or who are employed in or have access to the said factories, magazines, stores or shops, or are the licensees thereof, or who are in any way concerned in the conveyance, manipulation, ignition or setting-off of explosives, including the requirement that any licence granted for

the keeping of an explosives factory shall be subject to the taking out, at the expense of the licensee, of a policy of insurance, whether individual or collective, covering every employee and every person having access to the said factory as a voluntary worker against death or permanent disablement arising out of and in the course of his work in a sum of not less than two thousand and three hundred and twenty-nine euros and thirty-seven cents (2,329.37);

(*ba*) for activities taking place within an exclusive economic zone area and environment protection area as defined in the Exclusive Economic Zone Act;

Cap. 625.

(*c*) for any incidental and supplementary matters for which the Minister responsible for Police thinks it expedient for the purposes of the regulations to provide.

(2) Regulations made under this article may provide that, in respect of offences under any one or more regulations or under any one or more classes of regulations, the provisions of the Probation Act, or of article 21 of the Criminal Code shall not apply.

Cap. 446.
Cap. 9.

Appointment of committee.
Amended by: L.N. 46 of 1965; LVIII. 1974.68.

23. (1) The President of Malta may appoint a committee consisting of three experts to assist the authorities in carrying out the foregoing provisions of this Part.

(2) It shall be lawful for any member of such committee and for any Police officer not inferior in rank to sub-inspector, to enter any of the places referred to in article 5 in order to satisfy himself that the foregoing provisions are being complied with, and also to enter any other place in which the Police have reasonable cause to believe that gunpowder or any other explosive is kept or that gunpowder, explosives or fireworks are manufactured, in contravention of this Ordinance.

Discharge of petards, bombs, etc.
Amended by: XX. 2012.6.

24. (1) No person shall, without a licence from the Police, set fire to or let off petards, bombs, rockets, or other fireworks whatsoever, or fire-balloons, or generally cause any explosion or make any fire which may cause danger, in any place whatsoever.

(2) The issue of the licence mentioned in subarticle (1) shall be subject to the condition that the said operations shall be carried out in an enclosed place, and, on the occasion of festivals or other public gatherings, at such a distance from the crowd as to avoid danger of accidents.

(3) Where an offence against the provisions of subarticle (1) is committed and the offender is not known, the lessee or the occupier of the building in which the offence is committed, or if the building is not inhabited, the person having the management or control of such building, shall be answerable for the offence, provided he could have prevented the commission thereof.

Setting fire to stubble, etc., in fields.

25. (1) No one shall set fire to any stubble in any field at a distance less than ninety-two metres from any house, building,

plantation, stack of corn, straw, or forage, or any other deposit of combustible materials.

(2) Any person making any such fire beyond the distance mentioned above, shall take all the necessary precautions for the safety of the property of others, and shall attend personally and with a sufficient number of persons, until the fire is put out.

Use or possession of explosives for fishing purposes. *Added by: IV. 1920.10.*

26. It shall not be lawful for any person, at any time or in any place, to make use of or keep in his possession explosives for fishing purposes.

Arrest without warrant. *Added by: VIII. 2008.4.*

26A. Any police officer may arrest without warrant any person who has committed, or attempted to commit, or is reasonably suspected by the officer of having committed or attempted to commit, an offence against the provisions of this Ordinance, or of any regulations made thereunder, if he has reasonable ground for believing that that person will abscond unless arrested, or if the name and address of that person are unknown to and cannot be ascertained by him.

Suspension of licence. *Added by: VIII. 2008.4.*

26B. The Commissioner of Police may, saving the provisions of any other existing law, suspend any licence in the course of any proceedings for an offence against the provisions of this Ordinance.

Revocation of licence. *Added by: XX. 2012.7. Emended by: IX.2018.4.*

26C. Saving the provisions of any other law, the Commissioner of Police shall revoke any licence or licences, as the case may be, issued under this Ordinance or under regulations made under this Ordinance to any person who:

(a) has been convicted of:

(i) a serious offence against the provisions of this Ordinance or against the regulations made under article 22; or

(ii) a serious offence involving violence or attempted or threatened violence against the person; or

(iii) a serious offence under the Arms Act; or Cap. 480.

(iv) an offence of bodily harm with an arms proper or other instrument or of taking up any arm proper or other instrument against other persons; or

(v) an offence of theft; or

(vi) a serious offence against the laws relating to the suppression of prostitution, white slave traffic or traffic of persons; or

(vii) a serious offence relating to trafficking in drugs; or

(viii) any other serious offence that the Minister may by regulation prescribe from time to time:

Provided that, notwithstanding anything contained in the Probation Act, for the purposes of this paragraph a person shall be deemed to have been convicted even if any of the provisions of the said Act may have been Cap. 446.

applied in his regard; or

(*b*) has:

(i) a history of drug dependence or abuse; or

(ii) a medical certificate which does not certify the person physically or mentally able to work or enter into a gunpowder factory:

Exclusion from holding a licence. *Added by: IX.2018.5; Emendat: XXI of 2020.*

26D. (1) Saving the provisions of any other law, the Commissioner of Police shall not issue a licence under this Ordinance or under regulations made under this Ordinance to any person who, in the preceding five years of his application for a licence, has:

(a) been convicted of:

(i) an offence involving violence or attempted or threatened violence against the person; or

Cap. 480.

(ii) an offence under this Ordinance or the Arms Act; or

(iii) an offence of bodily harm with an arms proper or other instrument or of taking up any arm proper or other instrument against other persons; or

(iv) an offence of theft; or

(v) an offence against the laws relating to white slave traffic or traffic of persons; or

(vi) an offence relating to trafficking in drugs; or

(vii) any other offence that the Minister may by regulation prescribe from time to time:

Provided that, notwithstanding anything contained in the Probation Act, for the purposes of this paragraph a person shall be deemed to have been convicted even if any of the provisions of the said Act may have been applied in his regard; or

Cap. 446

(b) has:

(i) a history of drug dependence or abuse; or

(ii) a medical certificate which does not certify the person physically or mentally able to work or enter into a gunpowder factory.

(2) Notwithstanding the provisions of sub-article (1) a licence under this Ordinance may be granted by special authority of the Minister in the circumstances provided in those sub-articles.

(3) A licence may be refused to any person in the interest of public order or in the interest of the safety of such person or of the general public.

(4) Any person aggrieved by a decision of the Commissioner in accordance with sub-article (1) may appeal to the Administrative

Review Tribunal within seven days from the notification in writing of the refusal by the Commissioner.

PART II

PENAL PROVISIONS

Penalty for introducing, etc., explosives, *Amended by: XXVII. 1955.4; XIII. 1983.5; L.N. 407 of 2007; VIII. 2008.5.*

27. Whosoever shall commit an offence against the provisions of article 3 shall, on conviction, be liable to imprisonment for a term from two to five years or to a fine (*multa*) of not less than five thousand euro (€5,000) and not more than twenty-five thousand euro (€25,000), or to both such imprisonment and fine.

for suffering building to be used for the storage of explosives,

28. The same punishment shall be awarded to any person who shall knowingly suffer any building of which he is the occupier, or of which he has the control or management, to be used for the storage or manufacture of gunpowder, explosives, or fireworks in contravention of the provisions of this Ordinance.

for keeping, etc., explosives, *Amended by: IV. 1920.11; XXVII. 1955.5; XIII. 1983.5; L.N. 407 of 2007; VIII. 2008.6.*

29. (1) Whosoever, in contravention of the provisions of Part I of this Ordinance shall keep in his house or in any other place, or shall prepare, sell, or offer for sale, or deliver to unauthorized persons, gunpowder or any of the other substances referred to in article 6, shall, on conviction, be liable to imprisonment for a term from six months to two years or to a fine (*multa*) of not less than fifteen thousand euro (€15,000) and not more than fifty thousand euro (€50,000), or to both such imprisonment and fine.

(2) Where gunpowder or any other substance as referred to in subarticle (1) and which are kept, prepared, sold, offered for sale or delivered as provided in subarticle (1) cause an explosion in consequence whereof the death of an other person or bodily harm to another person ensues, the person who kept, prepared, sold, offered for sale or delivered the same gunpowder or other substance shall, upon conviction, be liable as follows:

(*a*) where the death of another person has ensued, to the punishment of imprisonment not exceeding four years;

(*b*) where a bodily harm which produces any of the effects mentioned in article 218 of the Criminal Code has ensued, to the punishment of imprisonment not exceeding two years or to a fine (*multa*) of not less than eight thousand euro (€8,000) but not exceeding eighty thousand euro (€80,000) or to both such fine and imprisonment; Cap. 9.

(*c*) where a bodily harm which does not produce any of the effects mentioned in article 218 of the Criminal Code has ensued, to the punishment of imprisonment not exceeding one year or to a fine (*multa*) of not less than two thousand five hundred euro (€2,500) but not exceeding twenty thousand euro (€20,000) or to both such fine and imprisonment. Cap. 9.

for conveying explosives, *Amended by: XXVII. 1955.6; XIII. 1983.5; L.N. 407 of 2007; VIII. 2008.7.*

30. Whosoever, in contravention of the provisions of Part I of this Ordinance, shall convey from one place to another gunpowder or explosives, shall, on conviction, be liable to imprisonment for a term from three months to one year or to a fine (*multa*) of not less than two thousand euro (€2,000) and not more than twenty thousand euro (€20,000), or to both such imprisonment and fine.

for contravening regulations,

31. Whosoever shall commit an offence against the regulations made under article 22, shall, on conviction, be liable to the punishment laid down in article 30 if the offence is against any of the regulations relating to the conveyance of gunpowder or explosives, or to the punishment laid down in article 29 if the offence is against any of the regulations relating to any of the other matters referred to in article 22.

for obstructing entry of officers, *Amended by: VIII. 2008.8.*

32. Whosoever, in the cases referred to in articles 8 and 23(2) or in the regulations made under this Ordinance, shall in any way obstruct the members of the committee, or the Police officers mentioned in those articles, in affecting an entrance into the places and for the purposes therein stated, shall, on conviction, be liable to a fine (*multa*) not exceeding one thousand euro (€1,000) or to imprisonment not exceeding six months, or to both such fine and imprisonment.

for setting fire to or letting off petards, etc., *Amended by: XXVII. 1955.7; XXXI. 1967.37; VIII. 2008.9; XVI.2022.3.*

33. (1) Whosoever shall commit an offence against the provisions of article 24 shall, on conviction, be liable to the punishment laid down in article 29:

Provided that, where the offence consists in the discharge without the required licence, permit or authorisation of fireworks consisting of Bengala lights or of lances with a coloured flame having a diameter which in any case does not exceed two and a half centimetres (2.5cm) or of coloured smoke canisters of a similar volume, and such discharge did not cause bodily harm or damage to property, the applicable punishment shall be of a fine (*multa*) of not less than one hundred and twenty euro (€120) and not more than three hundred and fifty euro (€350).

for settings fire to stubble in fields,

(2) Whosoever shall commit an offence against the provisions of article 25 shall, on conviction, be liable to a fine (*ammenda*) of not less than one hundred and fifty euro (€150), and, in serious cases, to detention for a period of not less than one month in addition to such fine.

for using explosives for fishing purposes. *Added by: IV. 1920.12. Amended by: XLIX. 1981.4.*

34. Whosoever shall commit an offence against the provisions of article 26 shall, on conviction, be liable to imprisonment for a term from one to nine years.

PART III

GENERAL PROVISIONS

Extension of definition of "explosive" to other explosive substances. *Amended by: L.N. 4 of 1963.*

35. The Minister responsible for the Police may by order declare that any substance which appears to him to be specially dangerous to life or property by reason of its explosive properties, or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Ordinance, and the provisions of this Ordinance (subject to such exceptions, limitations, and restrictions as may be specified in the order) shall accordingly extend to such substance in like manner as if it were included in the term "explosive" in this Ordinance.

Persons carrying on certain processes to be deemed manufacturers.

36. Any person who carries on any of the following processes, namely, the process of dividing into its component parts or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, or the process of remaking, altering or repairing any explosive, shall be subject to the provisions of this Ordinance as if he manufactured an explosive.

Definition and classification of explosives by order of the Minister responsible for the Police. *Amended by: L.N. 4 of 1963.*

37. (1) It shall be lawful for the Minister responsible for the Police from time to time by order to define, for the purposes of this Ordinance, the composition, quality and character of any explosive and to classify explosives.

(2) Where the composition, quality or character of any explosive has been so defined by the Minister responsible for the Police, any article alleged to be such explosive which differs from such definition in composition, quality or character, whether by reason of deterioration or otherwise, shall not be deemed, for the purposes of this Ordinance, to be the explosive so defined.

Regulations and orders to be published in Government Gazette. *Substituted by: XXVII. 1955.8. Amended by: XVII. 1961.2; XXV. 1962.2; L.N. 4 of 1963; XLIX. 198l.6.*

38. All regulations or orders made by the Minister responsible for the Police under this Ordinance shall be published by a notice in the Government Gazette, and shall come into operation on the date of such publication or such other date as may be made in such regulations or orders.

Offences to be classed as contraventions. *Amended by. XL. 1940.4*(3)*; XLIX. 1981.4.* Cap. 9.

39. (*Deleted by VIII. 2008.10*).

Forfeiture of *corpus delicti*, etc.
Amended by:
IV. 1920. 13;
XL. 1940.4 (4).
Substituted by:
XXVII. 1955.9.

40. (1) Where any offence against this Ordinance or of any regulations made thereunder is proved to have been committed, the "*corpus delicti*", the instruments, including any vehicle or vessel used or intended to be used in the commission of the offence, as well as any substance or thing produced by the offence shall be forfeited unless some person, who has not taken part in the offence, has a lawful claim to such instruments, vehicles, vessel, substances, or things and brings forward such claim within four working days from the day on which the judgment by which the offence is declared to have been committed becomes definitive.

(2) Notwithstanding anything contained in the preceding subarticle or in any other provision of law, in any criminal proceedings against any person for an offence against the provisions of this Ordinance or of any regulations made thereunder, the court, immediately after the reading of the charge or of the Police report or at any time thereafter, if it is satisfied that any explosive connected with the proceedings cannot be preserved for the duration of the proceedings without danger to persons or property, shall order the destruction of any such explosive under such expert supervision as it may deem expedient in the circumstances provided that in any such case the court will take all necessary steps to describe the aforesaid explosive and the state thereof.

Cap. 9.

(3) In the case of any *repertus* under article 558 of the Criminal Code where the document discovered consists of any explosives and it is shown to the satisfaction of the court that the provision of the said article regarding the preservation of the explosive cannot in any way be applied without danger to persons or property, the court shall proceed to order the destruction of the explosive with the precautions specified in the preceding subarticle including those relating to the description thereof.

Cancellation of licence.
Added by:
VIII. 2008.11.
Amended by:
XX. 2012.8.

40A. On conviction for an offence under this Ordinance, the court may, at the request of the prosecution or on its own motion, cancel any licence held by the offender in respect of any factory, shop or other premises wherein or within the precincts whereof the offence was committed, and, in the case of an offence committed through the use of a vehicle, both the offender's driving licence and any licence held by him in respect of the vehicle to which the offence relates:

Provided that nothing in this article shall be deemed to affect any powers of the Commissioner of Police under this or any other law to cancel or suspend any licence.

Applicability of the Probation Act.
Added by:
VIII. 2008.11.
Cap. 446.

40B. The provisions of article 24 of the Probation Act concerning the power of the court to order the offender to pay damages shall, *mutatis mutandis*, also apply whenever a person is sentenced upon conviction for an offence against the provisions of this Ordinance.

Saving for higher punishments under other laws. *Amended by: XXVII. 1955.10.* Cap. 9.

41. The punishments prescribed by this Ordinance or any regulations made thereunder shall only apply when the fact does not constitute an offence punishable with a higher punishment under the Criminal Code, or any other law; in which case the punishment laid down in that Code or other law shall apply.

Proceedings for offences against this Ordinance. *Amended by: IV. 1920.14; XXVII. 1955.10; VIII. 1990.3; VIII. 2008.12.*

42. Proceedings for an offence against any regulations made under this Ordinance, in so far as they are not accompanied by an offence against this Ordinance, shall be instituted by the Police in the Court of Magistrates (Malta) when the offence is committed in Malta, and in the Court of Magistrates (Gozo) when the offence is committed in Gozo or Comino.

Damages.

43. Saving the provisions of this Ordinance, any damages arising from any offence under the same shall be recoverable by the injured party as a civil debt.

Reduction of punishment. *Added by: VIII. 2008.13.*

43A. Where, in respect of a person found guilty of an offence against this Ordinance, the prosecution declares in the records of the proceedings that such person has helped the Police to apprehend the person or persons who supplied him with the explosives, or the person found guilty as aforesaid proves to the satisfaction of the court that he has so helped the Police, the punishment shall be diminished, as regards imprisonment by one or two degrees, and as regards any pecuniary penalty by one-third and one-half respectively.

Punishment in the case of a second offence. *Amended by: XXVII. 1955.11. Substituted by: VIII. 2008.14.*

44. Where a person, who has been convicted of an offence against the provisions of this Ordinance, or of any regulations made thereunder, commits a second like offence, he shall be liable, on conviction, to the punishment for the offence increased by two degrees, and on a third or subsequent conviction, by three degrees.

Third or subsequent conviction for a like offence. *Amended by: IV. 1920.15.*

45. (*Deleted by Act XX. 2012.9*).

Forfeiture of property. *Added by: VIII. 2008.15.*

45A. (1) Where an offence has been committed against the provisions of this Ordinance, the court shall, in addition to any other punishment, in its sentence or at any time thereafter, at the request of the prosecution:

(*a*) where any immovable property has been used for the manufacture, sale, exposition for sale, or storage of explosives as described in the bill of indictment or in the charge, order the forfeiture in favour of the Government of any real title which the offender holds on such immovable property;

(*b*) where the offender is not the absolute owner but holds any other real title on the immovable property, or has a title, other than a real title, in virtue of which he has the control of or a right of access to such property, the court shall order the offender to pay a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding sixty thousand euro (€60,000) as the court shall determine after taking into account the value of

the immovable property and the value of the real title thereon, if any, forfeited as aforesaid;

Cap. 9.

(*c*) saving the provisions of the Criminal Code, make an order whereby the provisions of paragraphs (*a*) and (*b*) shall be applied, *mutatis mutandis*, to or in respect of any vessel or vehicle, used for the keeping, storing or conveyance of, or for the selling or dealing in, explosives; and

(*d*) order the forfeiture in favour of the Government of the immovable property used for the manufacture, sale, exposition for sale, or storage of explosives, of the person so found guilty even if the immovable property has, since the offender was charged, passed into the hands of third parties.

(2) Any decision as is mentioned in subarticle (1) ordering the forfeiture of immovable property or of any title to such property shall be deemed to be and shall be enforceable as a civil judgment transferring that title in favour of the Government, and the Attorney General shall, for the purposes of article 239 of the Code of Organization and Civil Procedure, be considered as the interested party that may obtain the registration of such transfer.

Cap. 12.

Suspension order.
Added by: VIII. 2008.15.

45B. (1) Where a person is charged under this Ordinance or under regulations made thereunder, and such person is a person in possession of a licence, permit or authority issued to him by a competent authority in or in connection with the exercise of any art, trade, calling or other occupation and the offence is committed in a place licenced under this Ordinance, or under any other law, the court may make an order, hereinafter referred to as a "suspension order", suspending such licence, permit or authority.

(2) The suspension order shall remain in force for the whole duration of the proceedings until final judgment.

(3) Any person who does any act for the doing of which a licence, permit or authority is required under any law and such act is done when that licence, permit or authority had been suspended by virtue of a suspension order shall be deemed to have so acted without the required licence, permit or authority.

Non-applicability.
Added by: VIII. 2008.15.
Cap. 9.
Cap. 446.

45C. Saving what is provided in article 40B, the provisions of articles 21 and 28A of the Criminal Code and the provisions of the Probation Act shall not be applicable in respect of any person convicted of an offence under this Ordinance.

Compensation.
Added by: VIII. 2008.15.

45D. On conviction for an offence under the provisions of this Ordinance or of any regulations made thereunder, the court may order the offender to pay to any injured party such sum of money that may be determined by the court in that direction as compensation for any such loss as aforesaid or for any damages or other injury or harm caused to such party by or through the offence.

46. In case of any contravention against the provisions of this Ordinance or of any regulations made thereunder the court, besides awarding punishment, shall order the offender, where the occasion so requires, to remove any nuisance arising from the contravention, or, according to circumstances, to carry out the law within a time, sufficient for the purpose, to be fixed by the court: and if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine (*ammenda*) of not less than twenty-five euro (€25) and not more than one hundred euro (€100) for every day during which the nuisance or non-compliance with the law continues after the expiration of the said time.

Power of the court to order removal of nuisance. *Amended by: XXVII. 1955.11; XIII. 1983.5; L.N. 407 of 2007; VIII. 2008.16.*

47. The court may also order that the nuisance be removed, or that the law be carried out, by the Police at the expense of the offender, in which case he may, under a warrant issued by the said court, be made to refund such expense.

Removal of nuisance by Police.

48. (1) Where the offender is, on account of mental disease or other illness, unable to appear in court, or is absent from Malta or has absconded, and the Commissioner of Police certified on oath that it is urgently required that the nuisance caused by the offence be abated, or that the law be otherwise enforced, the court shall order the summons to be served, in either of the first two cases, on the lawful representative, or the person having the custody of the offender, and in the other cases, or if the offender, being insane, is not under the care of any person, on the husband or wife, or on a near relation by consanguinity or affinity of the offender or on the person, if any, entrusted with the management of his property.

Insanity or absence of offender.

(2) In any such case, if the offence is proved, the court shall apply the provisions of article 46 or of article 47; provided that where there be room for the application of any punishment against the offender who is insane or absent, the court shall adjourn the case until he is fit to stand trial or until his return.

[*] **49.** The provisions of this Ordinance shall not apply to the Armed Forces of Malta.

Non-applicability of Ordinance. *Substituted by: XXII. 1974.4.*

TRANSITORY PROVISIONS

50. Any regulations made by the competent authority in pursuance of the powers conferred by any of the enactments repealed by this Ordinance[†] and which are not inconsistent with the provisions of this Ordinance shall remain in force until new regulations are made in substitution therefor, under this Ordinance.

Regulations made under former law. *Amended by: L.N. 46 of 1965; LVIII. 1974.68.*

---

*Reference to the Visiting Forces Act, 1966, has been omitted in view of the repeal of that Act by Act IX of 1982.

†The repealing provisions are omitted under the Statute Law Revision Ordinance, 1936 and the Statute Law Revision Act, 1980.