

Website : <http://peso.gov.in>  
Email: [explosives@explosives.gov.in](mailto:explosives@explosives.gov.in)  
दूरभाष/ Telephone : 0712-2510248  
फ़ैक्स/ FAX : 2510577

कार्यालयीन उद्देश्य के सभी पत्रादि "मुख्य विस्फोटक नियंत्रक" के पदनाम से भेजे जाए उनके व्यक्तिगत नाम से नहीं.

All communications intended for this Office should be addressed to the 'Chief Controller of Explosives' and NOT to him by name.



भारत सरकार

GOVERNMENT OF INDIA

वाणिज्य और उद्योग मंत्रालय

Ministry of Commerce & Industry

पेट्रोलियम तथा विस्फोटक सुरक्षा संगठन

Petroleum and Explosives Safety Organisation

(पूर्व नाम - विस्फोटक विभाग)

(Formerly- Department of Explosives)

'ए'-ब्लॉक, पाँचवा तल, केन्द्रीय कार्यालय परिसर,

"A" Block, 5<sup>th</sup> Floor, CGO Complex,

सेमिनरी हिल्स, नागपुर - 440 006 (महा)

Seminary Hills, Nagpur- 440006

पत्रांक / No. R.1(1)158-II/2015(ERS)

दिनांक / Dated **26/06/2020**

To

**All Stakeholders**

Sub: - Stakeholders consultation regarding decriminalization of Explosives Act 1884- regarding

Sirs,

AS per directives from DPIIT a stakeholders meet is proposed on 29.06.2020 on Video conferencing (VC). Therefore all stakeholder are requested to submit their comments/views as per templates attached herewith. A copy of relevant Acts for decriminalization and copy of template along with Table 1 and Table 2 is forwarded for necessary action. Please submit the comments/views to this office by email to [abtamgadge@explosives.gov.in](mailto:abtamgadge@explosives.gov.in) positively today i.e., **26/06/2020** by 17.30 hrs.

Yours faithfully,

  
(R.A. Gujar)

Dy.Chief Controller of Explosives  
For Chief Controller of Explosives

Copy to,

Shri Sundeep Chouhan, Development Officer, DPIIT, New Dehli.

• Decriminalisation of offences under the Explosives Act, 1884 are as below:

Sl no	Penal provisions of the Act
1.	<b>9B. Punishment of certain offences. -</b>
	<b>(1)</b> Whoever, in contravention of rules made under <b>section 5</b> or of the conditions of a licence granted under the said rules-
	(a) manufactures, imports or export any explosive shall be punishable with imprisonment for a term which may extend to <b>three years, or with fine which may extend to five thousand rupees, or with both;</b>
	(b) possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which may extend to <b>two years</b> or with fine which may extend to <b>three thousand rupees</b> or with <b>both;</b> and
	(c) in any other case, with fine which may extend to <b>one thousand rupees.</b>
	<b>(2)</b> (i) Whoever in <u>contravention of a notification</u> issued under <b>section 6</b> manufactures, possessor imports any explosive shall be punishable with imprisonment for a term which may extend to <b>three years</b> or with fine which may extend to <b>five thousand rupees</b> or with <b>both;</b> and (ii) in the case of <u>importation by water</u> , the owner and master of the vessel or in the case of <u>importation by air</u> , the owner and the master of the aircraft, in which the explosive is imported shall, in the absence of reasonable excuse, each be punishable with fine which may extend to <b>five thousand rupees.</b>
	<b>(3)</b> Whoever,-
	(a) manufactures, sells, transports, imports, exports or possesses any explosive in contravention of the provisions of <b>clause (a) of section 6A;</b> or
	(b) sells, delivers or despatches any explosive in contravention of the provisions of <b>clause (b)</b> of that section, shall be punishable with imprisonment for a term which may extend to <b>three years</b> or with fine or with <b>both;</b> or
	(c) in contravention of the provisions of <b>Section 8</b> fails to give notice of any accident shall be punishable,-
	(i) with fine which may extend to <b>five hundred rupees, or</b>
	(ii) if the accident is attended by loss of human life, with imprisonment for a term which may extend to <b>three months</b> or fine or with <b>both.</b>
2.	<b>9C. Offences by companies. -</b>
	<b>(1)</b> Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

	<p><b>(2) Notwithstanding anything contained in sub-section (1), where as offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</b></p> <p>Explanation. - For the purposes of this section, -</p> <p>(a) "company" means any body corporate, and includes a firm or other association of individuals; and</p> <p>(b) "director", in relation to a firm, means a partner in the firm.</p>
3.	<p><b>10. Forfeiture of Explosives. -</b></p> <p>When a person is convicted of an offence punishable under this Act, or the rules made under this Act, the Court before which he is convicted may direct that explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance, shall, with the receptacles containing the same, be forfeited.</p>
4.	<p><b>11. Distress of aircraft or vessel. -</b></p> <p>Where the owner or master of any aircraft or vessel is adjudged under this Act to pay a fine for any offence committed with, or in relation to, that aircraft or vessel, the Court may, in addition to any power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of, -</p> <p>(a) the aircraft and its furniture or so much of the furniture, or</p> <p>(b) the vessel and the tackle, apparel and furniture of such vessel or so much of the tackle, apparel and furniture thereof, as is necessary for the payment of fine.</p>
5.	<p><b>12. Abetment and attempts. -</b></p> <p>Whoever abets, within the meaning of the Indian Penal Code (45 of 1860), the commission of an offence punishable under this Act, or the rules made under this Act, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.</p>
6.	<p><b>13. Power to arrest without warrant persons committing dangerous offences. -</b></p> <p>Whoever is found committing any act for which he is punishable under this Act, or the rules under this Act, and which tends to cause explosive or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, aircraft or vessel, may be apprehended without a warrant by a Police Officer, or by the occupier of, or the agent or servant of, or other person authorized by the railway administration or conservator or the port or officer in charge of the air port, and be removed from the place where he is arrested and conveyed as soon as conveniently may be before a Magistrate.</p>

\*\*\*\*\*

**Government of India**  
**Ministry of \_\_\_\_\_**

**Statement of Reason:**

**Decriminalisation of Minor Offences For Improving Business Sentiment  
And Unclogging Court Processes**

Decriminalisation of minor offences is one of the thrust areas of the Government. The risk of imprisonment for actions or omissions that aren't necessarily fraudulent or the outcome of malafide intent is a big hurdle in attracting investments. The ensuing uncertainty in legal processes and the time taken for resolution in the courts hurts ease of doing business. Criminal penalties including imprisonment for minor offences act as deterrents, and this is perceived as one of the major reasons impacting business sentiment and hindering investments both from domestic and foreign investors. This becomes even more pertinent in the post COVID19 response strategy to help revive the economic growth and improve the justice system.

Given the nature of pendency in all tiers of the courts and the time taken for disputes to be resolved, legislative measures have been considered to help restore trust in doing business. In this pursuit, it is also important that a balance be found so that malafide intent is punished while other less serious offences are compounded. Accordingly, a framework is required such that a penalty levied is sufficient to act as a deterrent. Actions taken for decriminalisation of minor offences are expected to go a long way in improving ease of doing business and helping unclog the court system and prisons. It would also be a significant step in the Government of India's objective of achieving '*Sabka Saath, Sabka Vikas and Sabka Vishwas*'.

Criminalizing procedural lapses and minor non-compliances increases burden on businesses and it is essential that one should re-look at provisions which are merely procedural in nature and do not impact national security or public interest at large. The following principles should be kept in mind when deciding on reclassification of criminal offences to compoundable offences: (i) Decrease the burden on businesses and inspire confidence amongst the investors; (ii) Focus on economic growth, public interest and national security should remain paramount; (iii) *Mens rea* (malafide/ criminal intent) plays an important role in imposition of criminal liability – therefore, it is critical to evaluate nature of non-compliance i.e. fraud as compared to negligence or inadvertent omission; and (iv) The habitual nature of non-compliance.

Given the importance of this exercise as also its large-scale impact across society, Government of India is conducting a stakeholder consultation exercise. In order to develop consensus, the Ministry of \_\_\_\_\_ which administers/the relevant Acts (viz. \_\_\_\_\_), invites the comments of State Governments/ UT Administrations, Civil Society/ Non-Government Organisations, Academicians, Public and Private Sector organisations, Multilateral Institutions and members of the public to submit their comments on the proposed amendments to the Ministry. The relevant Act(s) and specific provision(s) proposed for amendment are provided in **Table 1**. Stakeholders may submit their suggestions in the format provided below in **Table 2**.

219365/2020/EXP

**Table 2: Comments and Feedback**

Name of the Institution/ Organisation: \_\_\_\_\_

Category: State/ UT/Civil Society/ NGOs, Academics/ Public/ Private Sector/ Multilateral Institutions/ Members of the public (please tick)

S No.	Provision	Current Punishment	Proposed Amendments	Suggestions	Rationale for Suggestions
	Name of the Statute:.....				
1.					
2.					
..					

Comments/Suggestions may be submitted to the Ministry at the following address within .....days of the issuance date of this notice. The comments may also be emailed at .....

(Name and Correspondence Address)