Explosives Act 1875

1875 CHAPTER 17 38 and 39 Vict

PART IV.—SUPPLEMENTAL PROVISIONS, LEGAL PROCEEDINGS, EXEMPTIONS, AND DEFINITIONS

Legal Proceedings

87, 88. . . . . . .

[F1]89 Supplemental provisions as to forfeiture of explosive.

Where a court before whom a person is convicted of an offence against this Act has power to forfeit any explosive owned by or found in the possession or under the control of such person, the court may, if it think it just and expedient, in lieu of forfeiting such explosive, impose upon such person, in addition to any other penalty or punishment, a penalty not exceeding such sum as appears to the court to be the value of the explosive so liable to be forfeited.

Where any explosive, or ingredient of an explosive, is alleged to be liable under this Act to be forfeited, any indictment, information, or complaint may be laid against the owner of such explosive or ingredient, for the purpose only of enforcing such forfeiture; and where the owner is unknown, or cannot be found, a court may cause a notice to be advertised, stating that unless cause is shown to the contrary at the time and place named in the notice, such explosive will be forfeited, and at such time and place the court after hearing the owner or any person on his behalf (who may be present), may order all or any part of such explosive or ingredient to be forfeited.

Textual Amendments

F1 S. 89 repealed except for the purposes of ss. 30, 32 and 73 of this Act by S.I. 1974/1885, **Sch. 1** and S.I. 1974/2166, **reg. 2**

90 Jurisdiction in tidal waters or on boundaries.

For all the purposes of this Act—

(1) Any harbour, tidal water, or inland water which runs between or abuts on or forms the boundary of the jurisdiction of two or more courts shall be deemed to be wholly within the jurisdiction of each of such courts; and

(2) Any tidal water not included in the foregoing descriptions and within the territorial jurisdiction of Her Majesty, and adjacent to or surrounding any part of the shore of the United Kingdom, and any pier, jetty, mole, or work extending into the same, shall be deemed to form part of the shore to which such water or part of the sea is adjacent, or which it surrounds.

[F2]91 Prosecution of offences either summarily or on indictment.

Every offence under this Act may be prosecuted and every penalty under this Act may be recovered, and all explosives and ingredients liable to be forfeited under this Act may be forfeited either on indictment or before a court of summary jurisdiction, in manner directed by the Summary Jurisdiction Acts.

[F3]…

All costs and money directed to be recovered as penalties may be recovered before a court of summary jurisdiction in manner directed by the Summary Jurisdiction Acts.

A court of summary jurisdiction may by order prohibit a person from doing any act for doing which such person has twice been convicted under this Act, and may order any person disobeying such summary order to be imprisoned for any period not exceeding six months.

Textual Amendments

F2 S. 91 repealed except for purposes of ss. 30, 32 of this Act by S.I. 1974/1885, **Sch. 1**

F3 Words in s. 91 repealed (E.W.S.) (26.4.2005 with application outside E.W.S. as mentioned in reg. 3 of the amending S.I.) by The Manufacture and Storage of Explosives Regulations 2005 (S.I. 2005/1082), Sch. 5 para. 1(10), **Sch. 6** (with reg. 3)

92 . . . . . [F4]

Textual Amendments

F4 S. 68 repealed by Local Government Act 1972 (c. 70), **Sch. 30**

[F5]93 . . . . . .

Textual Amendments

F5 S. 93 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. VII**.

[F6]94 . . . . . .

Textual Amendments

F6 S. 94 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.

95 Distress of ship.

Where the owner or master of a ship or boat is adjudged to pay a penalty for an offence committed with or in relation to such ship or boat, the court may, in addition to any other power they may have for the purpose of compelling payment of such penalty, direct the same to be levied by distress or arrestment and sale of the said ship or boat and her tackle.

96 Application of penalties and disposal of forfeitures.

. . . . . [F7]

Any explosive or ingredient forfeited in pursuance of this Act may be sold, destroyed, or otherwise disposed of in such manner as the court declaring the forfeiture, or the Secretary of State, may direct, and the proceeds of any such sale or disposal shall be paid, applied, and accounted for in like manner as penalties under this Act.

The receptacle containing any such explosive or ingredient may be forfeited, sold, destroyed, or otherwise disposed of, in like manner as the contents thereof.

The provisions of Part Three of this Act with respect to an explosive, or ingredient of an explosive, seized in pursuance of this Act, and to the officer seizing, removing, detaining, keeping, or conveying, or otherwise dealing with the same, shall apply to any explosive and ingredient declared by any court to be forfeited, and to the officer removing, detaining, keeping, conveying, selling, destroying, or otherwise disposing of the same.

The court declaring the forfeiture, or the Secretary of State directing the sale or other disposal of any forfeited explosive or ingredient, and the receptacles thereof, may require the owner of such explosive or ingredient to permit the use of any ship, boat, or carriage containing such explosive or ingredient for the purpose of such sale or disposal upon payment of a reasonable compensation for the same, to be determined in case of dispute by a court of summary jurisdiction; and where the explosive or ingredient is directed to be destroyed, the owner and the person having possession of such explosive or ingredient, and the owner and master of the ship, boat, or carriage containing the same, or some, or one of them, shall destroy the same accordingly, and if the court or Secretary of State so order, the ship, boat, or carriage may be detained until the same is so destroyed; and if the Secretary of State is satisfied that default has been made in complying with any such direction by him or by a court, and that the detention of the ship, boat, or carriage will not secure the safety of the public, and that it is impracticable, having regard to the safety of the public or of the persons employed in such destruction, to effect the same without using such ship, boat, or carriage, or otherwise dealing with such ship, boat, or carriage, in like manner as if it were a receptacle for an explosive forfeited under this Act, the Secretary of State may direct such ship, boat, and carriage, or any of them, to be, and the same may accordingly be, so used or dealt with.

Textual Amendments

F7 Words repealed by S.I. 1974/1885, **Sch. 1**

Modifications etc. (not altering text)

C1 S. 96: transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 12 para. 1(4)** (with arts. 28-31)

Changes to legislation:
There are currently no known outstanding effects for the Explosives Act 1875, Cross Heading: Legal Proceedings.