



# Explosives Act 1875

1875 CHAPTER 17 38 and 39 Vict

## *PRELIMINARY*

**1 Short title.**

This Act may be cited as “The Explosives Act 1875.”

**2** ..... <sup>F1</sup>

**Textual Amendments**

**F1** S. 2 repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

**3 Substances to which this Act applies.**

This Act shall apply to gunpowder and other explosives as defined by this section.

The term “explosive” in this Act—

- (1) Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, 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
- (2) Includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

*Status: Point in time view as at 01/12/1993.*

*Changes to legislation: Explosives Act 1875 is up to date with all changes known to be in force on or before 22 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART I.—LAW RELATING TO GUNPOWDER

### Modifications etc. (not altering text)

- C1** Power to grant exemption from provisions of Pt. I (except ss. 30–32) and Pt. II conferred by [S.I. 1979/1378](#), [art. 2](#)

### *General Law as to Manufacture and Keeping of Gunpowder*

#### **4 Gunpowder to be manufactured only at factory lawfully existing or licensed under this Act.**

The manufacture of gunpowder shall not, nor shall any process of such manufacture, be carried on except at a factory for gunpowder either lawfully existing or licensed for the same under this Act.

Provided that nothing in this section shall apply to the making of a small quantity of gunpowder for the purpose of chemical experiment and not for practical use or for sale.

If any person manufactures gunpowder or carries on any process of such manufacture at any place at which he is not allowed by this section so to do, he shall be deemed to manufacture gunpowder at an unauthorised place.

[<sup>F2</sup>Where gunpowder is manufactured at an unauthorised place, the person so manufacturing shall be guilty of an offence.]

### Textual Amendments

- F2** Words substituted by [S.I. 1974/1885](#), [Sch. 2 para. 1](#)

#### **5 Gunpowder (except for private use) to be kept only in existing or new magazine or store, or in registered premises. E+W+S**

Gunpowder shall not be kept at any place except as follows; that is to say,

- (1) Except in the factory (either lawfully existing or licensed for the same under this Act) in which it is manufactured; or
- (2) Except in a magazine or store for gunpowder either lawfully existing or licensed under this Act for keeping gunpowder, or
- (3) Except in premises registered under this Act for keeping gunpowder.

Provided that this section shall not apply—

- [<sup>F3</sup>(1) To a person keeping gunpowder for his private use (within the meaning of the Control of Explosives Regulations 1991); or]
- (2) To the keeping of any gunpowder by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act [<sup>F4</sup>and of any health and safety regulations (within the meaning of Part I of the Health and Safety at Work etc. Act 1974) which apply to that conveyance].

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Any gunpowder kept in any place other than as above in this section mentioned shall be deemed to be kept in an unauthorised place.

[<sup>F5</sup>Where any gunpowder is kept in an unauthorised place, the occupier of such place, and also the owner of, or other person guilty of keeping the gunpowder, shall each be guilty of an offence.]

#### Textual Amendments

- F3** S. 5 Proviso (1) substituted (E.W.S.)(1.11.1991) by S.I. 1991/1531, reg. 19, Sch. 4 Pt.1 (with reg. 19(6))
- F4** Words in s. 5 proviso (2) substituted (E.W.S.) by S.I. 1989/615, reg. 18
- F5** Words substituted by S.I. 1974/1885, Sch. 2 para. 2

## 5 Gunpowder (except for private use) to be kept only in existing or new magazine or store, or in registered premises. **N.I.**

Gunpowder shall not be kept at any place except as follows; that is to say,

- (1) Except in the factory (either lawfully existing or licensed for the same under this Act) in which it is manufactured; or
- (2) Except in a magazine or store for gunpowder either lawfully existing or licensed under this Act for keeping gunpowder, or
- (3) Except in premises registered under this Act for keeping gunpowder.

Provided that this section shall not apply—

- (1) To a person keeping for his private use and not for sale gunpowder to an amount not exceeding on the same premises [<sup>F191</sup>15 kilograms] ; or
- (2) To the keeping of any gunpowder by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act with respect to the conveyance of gunpowder.

Any gunpowder kept in any place other than as above in this section mentioned shall be deemed to be kept in an unauthorised place.

[<sup>F192</sup>Where any gunpowder is kept in an unauthorised place, the occupier of such place, and also the owner of, or other person guilty of keeping the gunpowder, shall each be guilty of an offence.]

#### Extent Information

- E1** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only.

#### Textual Amendments

- F191** Words substituted by S.I. 1984/510, reg. 2, Sch. 1
- F192** Words substituted by S.I. 1974/1885, Sch. 2 para. 2

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### *Licensing of Factories and Magazines for Gunpowder*

## **6 Application for license for new factory or magazine.**

A new factory or magazine for gunpowder shall not be established except on the site and in the manner specified in a license for the same granted under this Act.

An applicant for such a license shall submit to [<sup>F6</sup>the Health and Safety Executive] the draft of a license accompanied by a plan (drawn to scale) of the proposed factory or magazine, and the site thereof (which plan shall be deemed to form part of and to be in this Act included in the expression “the license”).

The draft license shall contain the terms which the applicant proposes to have inserted in the license, and shall specify such of the following matters as are applicable; namely,

- (a) The boundaries of the land forming the site of the factory or magazine and either any belt of land surrounding the site which is to be kept clear, and the buildings and works from which it is to be kept clear, or the distances to be maintained between the factory or magazine, or any part thereof, and other buildings and works; and
- (b) The situation, character, and construction of all the mounds, buildings, and works on or connected with the factory or magazine, and the distances thereof from each other; and
- (c) The nature of the processes to be carried on in the factory and in each part thereof, and the place at which each process of the manufacture, and each description of work connected with the factory or magazine, is to be carried on, and the places in the factory or magazine at which gunpowder and any ingredients of gunpowder, and any articles liable to spontaneous ignition, or inflammable or otherwise dangerous, are to be kept; and
- (d) The amount of gunpowder and of ingredients thereof wholly or partly mixed to be allowed at the same time in any building or machine or any process of the manufacture or within a limited distance from such building or machine, having regard to the situation and construction of such building, and to the distance thereof from any other building or any works; and
- (e) The situation, in the case of a factory, of each factory magazine, and in the case of another magazine, of each building forming part of such magazine in which gunpowder is to be kept, and the maximum amount of gunpowder to be kept in each factory magazine, and in each such building as aforesaid; and
- (f) The maximum number of persons to be employed in each building in the factory; and
- (g) Any special terms which the applicant may propose by reason of any special circumstances arising from the locality, the situation or construction of any buildings or works, or the nature of any process, or otherwise.

[<sup>F6</sup>The Health and Safety Executive], after examination of the proposal, may reject the application altogether or may approve of the draft license, with or without modification or addition, and grant to the applicant permission to apply to the local authority for their assent to the establishment of the factory or magazine on the proposed site.

#### **Textual Amendments**

**F6** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

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#### Modifications etc. (not altering text)

- C2** S. 6 amended (N.I.) by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), **s. 24(1)**
- C3** S. 6 amended (N.I.)(temporarily until 15.6.1992 unless continued by Order) by [Northern Ireland \(Emergency Provisions\) Act 1991 \(c. 24, SIF 39:1\)](#), **s. 59(1)** (with s. 69) (which Act was repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), **Sch. 7 Pt. I** (with s. 63(3)))  
S. 6 amended (N.I.) (*temp.* from 25.8.1996) by 1996 c. 22, **ss. 50(1), 62(1)** (with s. 62(2))

## 7 Application for assent of local authority to site of new factory or magazine.

The local authority, upon application being made for their assent to the establishment of a new factory or magazine on the proposed site, shall cause notice to be published by the applicant in manner directed by this Act of the application and of the time and place at which they will be prepared to hear the applicant, and any persons objecting to such establishment who have not less than seven clear days before the day of hearing sent to the clerk of the local authority and to the applicant notice of their intention to appear and object, with their name, address and calling, and a short statement of the grounds of their objection.

[<sup>F7</sup>Upon the hearing of the application, or any adjournment thereof, the local authority may dissent altogether from the establishment of such new factory or magazine on the proposed site, or assent thereto, either absolutely or on any conditions requiring additional restrictions or precautions.]

Where the site of the proposed factory or magazine is situate within or within [<sup>F8</sup>1.6 kilometres]of the limits of the jurisdiction of any [<sup>F9</sup>district council] , or of any harbour authority, the applicant shall serve on such authority, if they are not the local authority, notice of the application and of the time and place of hearing fixed by the local authority.

The said notices shall be published and served by the applicant not less than one month before the hearing.

The local authority shall fix the time and place of hearing as soon as practicable after application made to them, and the time so fixed shall be as soon as practicable after the expiration of the said month from the publication and service of the notices by the applicant, and their final decision shall be given as soon as practicable after the expiration of the said month.

The place so fixed shall be situate within the jurisdiction of the local authority, or within a convenient distance of the limits of that jurisdiction.

The costs of any objections which the local authority may deem to be frivolous shall be ascertained by an order made by the local authority, and shall be a debt due from the objector to the applicant, of which such order shall be conclusive evidence.

Where the site of the proposed factory or magazine is situate partly within the jurisdiction of one local authority and partly within the jurisdiction of another, the assent of both local authorities shall be applied for in manner provided by this Act.

#### Textual Amendments

- F7** Paragraph repealed (N.I.) by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 25(2), **Sch. 9 Pt. I**

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- F8** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)
- F9** Words substituted by virtue of [Local Government Act 1894 \(c. 73\), s. 21\(1\)](#) and [Local Government Act 1972 \(c. 70\), s. 179\(3\)](#)

## 8 Grant and confirmation of license.

If on the hearing of the application for the establishment of a factory or magazine the local authority assent thereto either absolutely or on conditions submitted to by the applicant, the applicant shall be entitled to the license applied for in accordance with the draft approved by [<sup>F10</sup>the Health and Safety Executive] , with the addition (if the assent was on conditions) of the additional restrictions and precautions required by those conditions.

... <sup>F11</sup>

[<sup>F10</sup>The Health and Safety Executive] , when satisfied that the factory or magazine is sufficiently completed according to the license to justify the use thereof, shall confirm the license, but until so confirmed the license shall not come into force.

The land forming the site bounded as described in the license shall, with every mound, building, and work thereon for whatever purpose, be deemed, for the purposes of this Act, to be the factory or magazine referred to in the license.

### Textual Amendments

- F10** Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 3](#)
- F11** Words repealed by [S.I. 1974/1885, Sch. 1](#)

## *Regulation of Factories and Magazines for Gunpowder*

## 9 Regulation of factories and magazines for gunpowder.

In every gunpowder factory and magazine—

- (1) The factory or magazine, or any part thereof, shall not be used for any purpose not in accordance with the license; and
- (2) The terms of the license shall be duly observed, and the manufacture or keeping or any process in or work connected with the manufacture or keeping of gunpowder shall not be carried on except in accordance with those terms; and
- (3) The factory or magazine and every part thereof shall be maintained in accordance with the license; and any material alteration in the factory or magazine by enlarging or adding to the site, or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, shall not be made except in pursuance of an amending license granted under this Act.

[<sup>F12</sup>In the event of any breach (by any act or default) of this section in any factory or magazine, the occupier shall be guilty of an offence.]

The occupier of a factory shall not be deemed guilty of a breach of this section for using in a case of emergency, or temporarily, one building or part of a building in which any process of the manufacture is, under the terms of the license, carried on, for

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another process of the manufacture, if he do not carry on in such building or part more than one process at the same time, and if the quantity of gunpowder or ingredients thereof in such building or part do not exceed the quantity allowed to be therein, or any less quantity allowed to be in the building or part of a building in which such other process is usually carried on; and if upon such use being continued after the lapse of twenty-eight days from the first beginning of such use he send notice of such use to [<sup>F13</sup>an inspector appointed by the Health and Safety Executive under section 19 of the <sup>M1</sup>Health and Safety at Work etc. Act 1974] , and the [<sup>F13</sup>inspector so appointed] do not require the discontinuance of such use.

#### Textual Amendments

**F12** Words substituted by [S.I. 1974/1885, Sch. 2 para. 4](#)

**F13** Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 5](#)

#### Marginal Citations

**M1** [1974 c. 37.](#)

## 10 General rules for factories and magazines.

In every gunpowder factory and magazine the following general rules shall be observed:

- (1) In a factory every factory magazine, and in any other magazine every building in which gunpowder is kept, shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder; and
- (2) The interior of every building in which any process of the manufacture is carried on or in which gunpowder or any ingredients thereof, either mixed or partially mixed, are kept, or in the course of manufacture are liable to be (in this Act referred to as a danger building), and the 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 in such manner, and the detaching of any grit, iron, steel, or similar substance in such manner, as to come into contact with the gunpowder or ingredients thereof in such building, and such interior, benches, shelves, and fittings shall, so far as is reasonably practicable, be kept free from grit and otherwise clean; and
- (3) Every factory magazine and expense magazine, in a factory, and every danger building in a magazine, shall have attached thereto a sufficient lightning conductor, unless, by reason of the construction by excavation or the position of such magazine or building, or otherwise, [<sup>F14</sup>the Health and Safety Executive] considers a conductor unnecessary, and every danger building in a factory shall, if so required by [<sup>F14</sup>the Health and Safety Executive] have attached thereto a sufficient lightning conductor; and
- (4) Charcoal, whether ground or otherwise, and oiled cotton, oiled rags, and oiled waste, and any articles whatever liable to spontaneous ignition, shall not be taken into any danger building, except for the purpose of immediate supply and work or immediate use in such building, and upon the cessation of such work or use shall be forthwith removed; and
- (5) Before repairs are done to or in any room in or other part of a danger building, that room or part shall, so far as practicable, be cleaned by the removal of all gunpowder,



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and wholly or partly mixed ingredients thereof, and the thorough washing out of such room or part; and such room or part of the building after being so cleaned shall not be deemed to be a danger building within the meaning of these rules until gunpowder or the wholly or partly mixed ingredients thereof are again taken into it; and

- (6) There shall be constantly kept affixed in every danger building, either outside or inside, in such manner as to be easily read, a statement of the quantities of gunpowder or ingredients allowed to be in the building, and a copy of these rules, and of any other part of this Act required by [<sup>F14</sup>the Health and Safety Executive] to be affixed, and of such part of the license and special rules made under this Act as apply to the building; and with the addition in a factory of the name of the building, or words indicating the purpose for which it is used; and
- (7) All tools and implements used in any repairs to or in a danger 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; and
- (8) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into any danger building of fire, lucifer matches, or any substance or article likely to cause explosion or fire, and for preventing the introduction of any iron, steel, or grit into any part of a danger building where it would be likely to come into contact with gunpowder or the wholly or partly mixed ingredients thereof; but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (9) No person shall smoke in any part of the factory or magazine, except in such part (if any) as may be allowed by the special rules; and
- (10) Any carriage, boat, or other receptacle in which gunpowder, or the wholly or partly mixed ingredients thereof, are conveyed from one building to another in a factory or magazine, or from any such building to any place outside of such factory or magazine, shall be constructed without any exposed iron or steel in the interior thereof, and shall contain only the gunpowder and ingredients, and shall be closed or otherwise properly covered over; and the gunpowder and ingredients shall be so conveyed with all due diligence, and with such precautions and in such manner as will sufficiently guard against any accidental ignition; and
- [<sup>F15</sup>(11) A person under the age of eighteen years shall not be employed in or enter any danger building except in the presence and under the supervision of some person of the age of twenty-one years or upwards, and a person under the age of sixteen years, shall not be employed in any such building except in some process which has been declared by an Order made by the Secretary of State to be a process which is not in itself dangerous and except in the presence and under the supervision of some person of the age of twenty-one years or upwards.]
- (12) In a factory the ingredients in course of manufacture into gunpowder shall be removed with all due diligence from each working building so soon as the process connected with those ingredients which is carried on in such building is completed, and all finished gunpowder shall with all due diligence either be removed to a factory magazine, or sent away immediately from the factory, and such ingredients and gunpowder shall be loaded and unloaded with all due diligence; and



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- (13) In a factory all ingredients to be made or mixed into gunpowder shall, before being so made or mixed, be carefully sifted, for the purpose of removing therefrom, so far as practicable, all dangerous foreign matter.

The Secretary of State may, from time to time, by order, make, and when made rescind and alter, such modifications in the foregoing general rules as may appear to him to be necessary for adapting the same to floating magazines, and such modifications shall have effect as if they were contained in this section.

[<sup>F16</sup>In the event of any breach (by any act or default) of the general rules in any factory or magazine, the occupier shall be guilty of an offence.]

#### Textual Amendments

- F14** Words substituted by virtue of S.I. 1974/1885, [Sch. 2 para. 3](#)  
**F15** Rule (11) substituted by [Explosives Act 1923 \(c. 17\), s. 2\(1\)](#)  
**F16** Words substituted by S.I. 1974/1885, [Sch. 2 para. 6](#)

## 11 Special rules for regulation of workmen in factory or magazineb.

Every occupier of a gunpowder factory or magazine shall, with the sanction of [<sup>F17</sup>the Health and Safety Executive] , make special rules for the regulation of the persons managing or employed in or about such factory or magazine, with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons and the safety of the public.

[<sup>F18</sup>A person who contravenes any special rule made under this section shall be guilty of an offence.]

The occupier may, and if required by [<sup>F17</sup>the Health and Safety Executive] shall, with the sanction of [<sup>F17</sup>the Health and Safety Executive] , repeal, alter, or add to any special rules made in pursuance of this section.

If an occupier is required by [<sup>F17</sup>the Health and Safety Executive] to make, repeal, alter, or add to any rules under this section, and fail within three months after such requisition to comply therewith to the satisfaction of [<sup>F17</sup>the Health and Safety Executive] , [<sup>F17</sup>the Health and Safety Executive] may make, repeal, alter, or add to the special rules, and anything so done by [<sup>F17</sup>the Health and Safety Executive] shall have effect as if done by the occupier with the sanction of [<sup>F17</sup>the Health and Safety Executive] .

... <sup>F19</sup>

#### Textual Amendments

- F17** Words substituted by virtue of S.I. 1974/1885, [Sch. 2 para. 3](#)  
**F18** Words substituted by S.I. 1974/1885, [Sch. 2 para. 7](#)  
**F19** Words repealed by S.I. 1974/1885, [Sch. 1](#)

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*Supplemental as to Factories and Magazines for Gunpowder*

**12 Alteration of terms of license and enlargement of factory or magazine.**

Where the occupier of any gunpowder factory or magazine desires that any alteration should be made in the terms of his license, or any material alteration made in the factory or magazine by enlarging or adding to the site or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, he may apply for an amending license.

If he satisfy [<sup>F20</sup>the Health and Safety Executive] that the alteration may be properly permitted, having regard to the safety of the persons employed in the factory or magazine, and will not materially either increase the danger to the public from fire or explosion, or diminish the distance of any danger building in the factory or magazine from any building or work outside and in the neighbourhood of the factory or magazine, or increase the amount of gunpowder allowed to be kept in the factory magazine or in any building in the magazine, [<sup>F20</sup>the Health and Safety Executive] may grant the amending license of [<sup>F20</sup>its] own authority, but, save as aforesaid, the provisions of this Act with respect to the application for and grant of a new license shall apply to such amending license.

**Textual Amendments**

**F20** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

**13 Devolution and determination of license.**

A gunpowder factory or magazine license shall not be avoided by any change in the occupier of the factory or magazine; but notice of the name, address, and calling of the new occupier shall be sent to [<sup>F21</sup>the Health and Safety Executive] within three months after the change, and in default such new occupier shall be [<sup>F22</sup>guilty of an offence].

A factory or magazine license shall be determined by a discontinuance of the business carried on in pursuance of any such license if such discontinuance continues for a period of two years or more, or if the factory or magazine is used for any purpose not authorised by the license.

Provided that if the occupier sends to [<sup>F21</sup>the Health and Safety Executive] and publishes in manner directed by [<sup>F21</sup>the Health and Safety Executive] , a notice to the effect that the right to the factory or magazine license is not intended to be surrendered, the license shall not be determined until after the expiration of five years after the first discontinuance of the business, whether the factory or magazine has or has not been used for any purpose not authorised by the license.

**Textual Amendments**

**F21** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

**F22** Words substituted by S.I. 1974/1885, Sch. 2 para. 8

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*Application of Act to existing Factories and Magazines for Gunpowder*

**14 Continuing certificate for existing factories and magazines.**

A factory or magazine for gunpowder used at the time of the passing of this Act shall not be deemed to be a lawfully existing factory or magazine within the meaning of this Act unless the occupier thereof apply for and obtain in manner provided by this Act a certificate (in this Act referred to as a continuing certificate) in respect of such factory or magazine.

F23  
...

The regulations in Part One of the First Schedule to this Act shall be deemed to form part of the terms of a continuing certificate for a factory.

The land forming the site bounded as described in the certificate shall, with every mound, building, and work thereon, for whatever purpose, be deemed, for the purpose of this Act, to be the factory or magazine referred to in the certificate.

F23  
...

For the purposes of this Act, a continuing certificate shall (save as otherwise expressly provided) be deemed to be a license, and the factory or magazine, as the case may be mentioned therein to be a factory or magazine licensed under this Act, and the provisions of this Act shall be construed accordingly.

Provided that—

- (1) It shall not be necessary in any case to apply for the assent of the local authority to an amending license for an alteration in the terms of such certificate, or for an alteration in the factory or magazine; and
- (2) Such factory or magazine, if the certificate is determined by the discontinuance of the business carried on therein, shall cease to be deemed an existing factory or magazine.

F24  
...

**Textual Amendments**

**F23** Words in s. 14 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.

**F24** Words repealed by [Statute Law Revision Act 1898 \(c. 22\)](#)

*Consumers Stores for Gunpowder Licensing and Regulation of Stores*

**15 Store license to be obtained from local authority.**

Any person may apply for a license for a gunpowder store to the local authority at the time and place appointed by such authority, stating his name, address, and calling, the proposed site and construction of the store and the amount of gunpowder he proposes to store therein; and the local authority shall, as soon as practicable, if the proposed site, construction of the store, and amount of gunpowder are in accordance with the Order in Council herein—after mentioned, grant to the applicant, on payment of such fee, not exceeding [F25] that from time to time fixed by or determined under regulations

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made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974], as may be fixed by that authority, the license applied for.

#### Textual Amendments

**F25** Words substituted (E.W.S.) by S.I. 1987/52, reg. 2, Sch. 1

#### Modifications etc. (not altering text)

- C4** S. 15 amended (N.I.) by Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 24(2)
- C5** Power to amend s. 15 conferred by Local Government Act 1966 (c. 42), s. 35(2), Sch. 3 Pt. II and Local Government (Scotland) Act 1966 (c. 51), s. 42(2), Sch. 4 Pt. II
- C6** S. 15 amended (N.I.) (temporarily until 15.6.1992 unless continued by Order) by Northern Ireland (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), s. 59(2) (with s. 69) (which Act was repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), Sch. 7 Pt. I (with s. 63(3)))  
S. 15 amended (N.I.) (*temp.* from 25.8.1996) by 1996 c. 22, ss. 50(2), 62(1) (with s. 62(2))

## 16 Order in Council prescribing situation and construction of stores.

Her Majesty may from time to time by Order in Council made on the recommendation of the Secretary of State—

- (1) Regulate the construction and materials and fittings of gunpowder stores; and
- (2) Prescribe the buildings and works from which gunpowder stores are to be separated, and the distances by which they are to be separated; and
- (3) Prescribe the maximum amount of gunpowder, not exceeding [<sup>F26</sup>2,000 kilograms] , to be kept in stores, graduated according to their construction and situation and their distance from the said buildings and works.

Provided that an order under this section shall not require the removal of any building lawfully in use at the date of the making of such order.

#### Textual Amendments

**F26** Words substituted by S.I. 1984/510, reg. 2, Sch. 1

## 17 General rules for stores.

In every gunpowder store the following general rules shall be observed; that is to say,

- (1) The provisions of an Order in Council relating to stores, so far as they apply to such store, shall be duly observed:
- (2) There shall not be at the same time in the store an amount of gunpowder exceeding the amount specified in the license; and
- (3) The store shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder; and
- (4) The interior of the store, and the benches, shelves, and fittings therein, shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel and

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- 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, so far as is reasonably practicable, be kept free from grit, and otherwise clean; and
- (5) The store shall have attached thereto a sufficient lightning conductor, unless it is made by excavation or is licensed for less than [<sup>F27</sup>500 kilograms] of gunpowder; and
- (6) Before repairs are done to or in any part of a store, the store shall, so far as practicable, be cleaned by the removal of all gunpowder and the thorough washing out of the store; and after such cleaning, these rules shall cease to apply to the store until gunpowder is again taken there; and
- (7) Except after such cleaning, all tools and implements used in or in any repairs to the store shall be made only of wood, copper, or brass, or some soft metal or material, or shall be covered with some safe and suitable material; and
- (8) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into the store of fire, lucifer matches, or any substance or article likely to cause explosion or fire, or any iron, steel, or grit; but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (9) No person shall smoke in any part of the store; and
- [<sup>F28</sup>(10) A person under the age of eighteen years shall not be employed in or enter the store except in the presence and under the supervision of some person of the age of twenty-one years or upwards.]
- [<sup>F29</sup>In the event of any breach (by any act or default) of the general rules in any store, the occupier shall be guilty of an offence.]

#### Textual Amendments

**F27** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)

**F28** Rule (10) substituted by [Explosives Act 1923 \(c. 17\), s. 2\(2\)](#)

**F29** Words substituted by [S.I. 1974/1885, Sch. 2 para. 9](#)

## 18 Non-transferability, renewal, and forms of store licenses.

A store license shall be valid only for the person named in it, and shall, annually, unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, on application by post or otherwise, and payment of such fee, not exceeding [<sup>F30</sup>that from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974], as may be from time to time fixed by the local authority, be renewed by that authority, by endorsement or otherwise, for that year, and unless so renewed shall expire.

Store licenses shall be in the form from time to time directed by [<sup>F31</sup>the Health and Safety Executive].

#### Textual Amendments

**F30** Words substituted (E.W.S.) by [S.I. 1987/52, reg. 2, Sch. 1](#)

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**F31** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**

**Modifications etc. (not altering text)**

**C7** Power to amend s. 18 conferred by **Local Government Act 1966 (c. 42), s. 35(2), Sch. 3 Pt. II** and **Local Government (Scotland) Act 1966 (c. 51), s. 42(2), Sch. 4 Pt. II**

**C8** S. 18 as applied by s. 49 modified by **Fireworks Act 1951 (c. 58), s. 7(2)**

**19 Special rules for regulation of workmen in stores.**

Every occupier of a gunpowder store may, with the sanction of [<sup>F32</sup>the Health and Safety Executive] , make, and when made, may, with the like sanction, repeal, alter, or add to, special rules for the regulation of the persons managing or employed in or about such store, with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons and the safety of the public.

[<sup>F33</sup>A person who contravenes any special rule made under this section shall be guilty of an offence.]

**Textual Amendments**

**F32** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**

**F33** Words substituted by S.I. 1974/1885, **Sch. 2 para. 10**

*Application of Act to existing Stores for Gunpowder*

**20 Definition of and continuing certificate for existing stores which are to be subject to this Act.**

Any magazine established without a license from a local authority in pursuance of the <sup>M2</sup>Gunpowder Act 1860, or of any enactment repealed by that Act, for the use of any mine, quarry, colliery, or factory of safety fuzes, and in use at the passing of this Act, is in this Act referred to as an existing gunpowder store.

An existing gunpowder store shall not require a continuing certificate as a magazine from the Secretary of State, but shall require a continuing certificate from the local authority, and if such certificate is not applied for and obtained in manner provided by this Act, shall not be deemed to be a lawfully existing store.

<sup>F34</sup> . . .

<sup>F34</sup> . . .

The regulations in Part Two of the First Schedule to this Act shall apply to every store to which a continuing certificate is granted, as if they were contained in an Order in Council under this Act relating to stores.

For the purposes of this Act a continuing certificate for a store shall, save as otherwise expressly provided, be deemed to be a license, and the store a store licensed under this Act, and the provisions of this Act shall be construed accordingly.

Provided that—

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- (1) The store shall not be enlarged, or added to, or so altered as to be of a less secure construction, and any breach of this proviso shall be deemed to be a breach of the general rules relating to stores; and
- (2) The continuing certificate shall not be limited in duration, but if the business carried on in the store is discontinued, and either such discontinuance continues for a period of twelve months or more, or the store is used for another purpose, such store shall cease to be deemed an existing gunpowder store.

Nothing in this section shall prevent the obtaining for any existing gunpowder store of a license from the local authority under this Act, as in the case of a new store, and a store for which such license is obtained shall, whether a continuing certificate has or has not been previously obtained for the same, cease to be deemed an existing gunpowder store.

F35

#### Textual Amendments

**F34** Words in s. 20 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. VII**.

**F35** Words repealed by **Statute Law Revision Act 1898 (c. 22)**

#### Marginal Citations

**M2** 1860 c. 139.

### *Retail Dealing with Gunpowder Registration and Regulation of Registered Premises*

## **21 Registration of premises with local authority.**

A person desirous of registering with the local authority any premises for the keeping of gunpowder shall register his name and calling, and the said premises (in this Act referred to as his registered premises) in such manner and on payment of such fee, not exceeding [<sup>F36</sup>that from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974] , as may be directed by the local authority.

Such registration shall be valid only for the person registered, and shall be annually renewed by sending by post or otherwise notice of such renewal to the local authority, together with such fee, not exceeding [<sup>F36</sup>that from time to time fixed by or determined under those regulations.] , as may be fixed by that authority.

#### Textual Amendments

**F36** Words beginning “that from time to time” substituted (E.W.S.) for “£6” by **S.I. 1987/52, reg. 2, Sch. 1**

#### Modifications etc. (not altering text)

**C9** S. 21 amended (N.I.) by **Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 24(2)**

**C10** Power to amend s. 21 conferred by **Local Government Act 1966 (c. 42), s. 35(2), Sch. 3 Pt. II** and **Local Government (Scotland) Act 1966 (c. 51), s. 42(2), Sch. 4 Pt. II**



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- C11** S. 21 amended (N.I.) (temporarily until 15.6.1992 unless continued by Order) by [Northern Ireland \(Emergency Provisions\) Act 1991 \(c. 24, SIF 39:1\), s. 59\(2\)](#) (with s. 69) (which Act was repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), [Sch. 7 Pt. I](#) (with s. 63(3)))  
S. 21 amended (N.I.) (*temp.* from 25.8.1996) by 1996 c. 22, [ss. 50\(2\), 62\(1\)](#) (with s. 62(2))

## 22 General rules for registered premises.

The following general rules shall be observed with respect to registered premises:

- (1) The gunpowder shall be kept in a house or building, or in a fire-proof safe, such safe, if not within a house or building, to be at a safe distance from any [<sup>F37</sup>highway, street, public thoroughfare][<sup>F37</sup>road] , or public place; and
- (2) The amount of gunpowder on the same registered premises shall not—
  - (a) If it is kept in a substantially constructed building exclusively appropriated for the purpose and detached from a dwelling-house, or in a fire-proof safe outside a dwelling-house, and detached therefrom, and at a safe distance from any [<sup>F37</sup>highway, street, public thoroughfare][<sup>F37</sup>road] , or public place, exceed [<sup>F38</sup>100 kilograms] ; and
  - (b) If it is kept inside a dwelling-house, or in any building other than as last aforesaid, exceed [<sup>F39</sup>25 kilograms] , unless it is kept in a fire-proof safe within such house or building, in which case the amount shall not exceed [<sup>F39</sup>50 Kilograms] ; and
- (3) An article or substance of an explosive or highly inflammable nature shall not be kept in a fire-proof safe with the gunpowder, and in every case shall be kept at a safe distance from the gunpowder or the safe containing the same; and
- (4) Neither the building exclusively appropriated for the purpose of keeping the gunpowder nor the fire-proof safe shall have any exposed iron or steel in the interior thereof; and
- (5) All gunpowder exceeding [<sup>F40</sup>500 grams] in amount shall be kept in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping.

[<sup>F41</sup>In the event of any breach (by any act or default) of such general rules in any registered premises, the occupier shall be guilty of an offence.]

### Textual Amendments

- F37** Word “road” substituted (S.) for “highway, street, public thoroughfare” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 7\(2\)](#)
- F38** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)
- F39** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)
- F40** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)
- F41** Words substituted by [S.I. 1974/1885, Sch. 2 para. 11](#)

### Modifications etc. (not altering text)

- C12** S. 22 explained as to meaning of public place (S.) by [Countryside \(Scotland\) Act 1967 \(c. 86\), s. 27\(6\)](#)

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### *Supplemental Provisions*

#### **23 Precautions against fire or explosion to be taken by occupier.**

The occupier of every factory, magazine, store, and registered premises for gunpowder, and every person employed in or about the same, shall take all due precaution for the prevention of accidents by fire or explosion in the same, and for preventing unauthorised persons having access to the factory magazine, or store, or to the gunpowder therein or in the registered premises, and shall abstain from any act whatever which tends to cause fire or explosion and is not reasonably necessary for the purpose of the work in such factory, magazine, store, or premises.

Any breach (by any act or default) of this section in any factory, magazine, store, or registered premises shall be deemed to be a breach of the general rules applying thereto.

**Modifications etc. (not altering text)**

**C13** S. 23 extended by [Explosives Act 1923 \(c. 17\), s. 1](#)

#### **24 Explanation as to quantities of gunpowder allowed in buildings.**

Where any provision of this Act limits the quantity of gunpowder or ingredients of gunpowder to be allowed in any building at any one time, all gunpowder and ingredients within the radius of [<sup>F42</sup>twenty metres] from the building and in course either of removal from the building, or of removal to the building for the supply and work thereof, shall be deemed to be in the building:

Provided that, if while the gunpowder or ingredients so in course of removal are within the radius, every machine and manufacturing process in the building is wholly stopped, there may, in addition to the quantity so allowed as aforesaid to be in the building, be within the radius a further quantity of gunpowder and ingredients so in course of removal as aforesaid, not exceeding the quantity specified in that behalf in the license, or in the case of an existing building in a lawfully existing factory for gunpowder [<sup>F42</sup>500 kilograms] , or any less quantity so allowed as aforesaid to be in the building.

Where any provision of this Act limits the quantity of gunpowder or ingredients of gunpowder to be allowed in any machine at any one time, but does not limit the quantity to be in the building containing such machine, the foregoing provisions of this section shall apply, so far as circumstances admit, as if such machine were a building.

Where the quantity allowed to be in any building is limited to what is required for the immediate supply and work of such building, or by words not specifying the exact quantity, [<sup>F43</sup>an inspector appointed by the Health and Safety Executive under section 19 of the <sup>M3</sup>Health and Safety at Work etc. Act 1974] who considers that the quantity in any such building is in excess, may, after hearing the explanation of the occupier, require the occupier to diminish such quantity to the maximum named in the requisition.

..... F44

The exact quantity to be allowed in such building shall be determined by the requisition, [<sup>F45</sup>or if the matter is referred to arbitration, by the award].

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**Textual Amendments**

- F42 Words substituted by S.I. 1984/510, reg. 2, Sch. 1
- F43 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 5
- F44 Words repealed by S.I. 1974/1885, Sch. 1
- F45 Words in s. 24 repealed (E.W.S.) (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt.VII.

**Marginal Citations**

- M3 1974 c. 37.

25 ..... F46

**Textual Amendments**

- F46 Ss. 25, 37 repealed by S.I. 1974/1885, Sch. 1

[26<sup>F47</sup> Fees for licenses.

[<sup>F48</sup>There shall be payable in respect of licenses and continuing certificates granted by the Secretary of State such fees as may be from time to time fixed by him with the consent of the Treasury, not exceeding the fees in the Third Schedule to this Act, and if no fee is fixed the fees bmentioned in the said schedule.]]

Such fees shall be taken and paid into the receipt of Her Majesty’s Exchequer in such manner as the Treasury may from time to time direct, and shall be carried to the Consolidated Fund.

..... F49

When the local authority do not fix any fee which they are authorised by this Act to fix, the fee payable shall be the [<sup>F50</sup>maximum fee which such authority are authorised to fix][<sup>F50</sup>that from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974].

[<sup>F51</sup>The fees payable to the local authority in respect of any license, certificate, or otherwise in pursuance of this Act, shall, where the clerk of the local authority is not wholly paid by fees, be carried to the credit of the local rate, or otherwise disposed of as such local authority may direct, and where such clerk is wholly paid by fees, shall, unless the local authority otherwise direct, be paid to such clerk.]

**Textual Amendments**

- F47 Words repealed except insofar as applying to Northern Ireland by S.I. 1983/1450, reg. 3
- F48 Words repealed so far as relates to fees payable in respect of licences for importation of explosives by Revenue Act 1909 (c. 43), Sch.
- F49 Words repealed by S.I. 1974/1885, Sch. 1
- F50 Words beginning “that from time to time”substituted (E.W.S.) for words beginning “the maximum fee” by S.I. 1987/52, reg. 22, Sch. 1
- F51 Words repealed (E.W.) by Local Government Act 1972 (c. 70), Sch. 30

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**Modifications etc. (not altering text)**

**C14** S. 26 applied with modifications by S.I. 1974/1885, **Sch. 2 para. 12**

**27 Adjoining places occupied together to be one place.**

For the purposes of the provisions of this Act with respect to the manufacture and keeping of gunpowder, all buildings and places adjoining each other and occupied together shall be deemed to be the same factory, magazine, store, or premises, and shall accordingly be included in one license or one registration.

**28 Register of store licenses and registered premises to be kept by local authority.**

The local authority shall cause registers of all store licenses granted by and of all premises registered with them under this Act to be kept in such form and with such particulars as they may direct.

The local authority shall, when so required by [<sup>F52</sup>the Health and Safety Executive], send to [<sup>F52</sup>it] , within the time fixed by such requisition, a copy of such register or any part thereof, and in default the clerk of such authority, and also the authority if they are in fault, shall be liable to a penalty not exceeding one pound for every day during which such default continues.

F53

**Textual Amendments**

**F52** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**

**F53** Words repealed by S.I. 1974/1885, **Sch. 1**

**29 Provision in case of death, &c. of occupier of store or registered premises.**

If the occupier of a store or registered premises dies or becomes bankrupt, or has his affairs liquidated by arrangement, or becomes mentally incapable or otherwise disabled, the person carrying on the business of such occupier shall not be liable to any penalty . . . <sup>F54</sup> for carrying on the business and acting under the license or registration during such reasonable time as may be necessary to allow him to obtain a store license from or to register with the local authority, so that he otherwise conform with the provisions of this Act.

**Textual Amendments**

**F54** Words repealed by S.I. 1974/1885, **Sch. 1**

*Sale of Gunpowder*

**30 Restriction on sale of gunpowder in highways, &c.**

Gunpowder shall not be hawked, sold, or exposed for sale upon any [<sup>F55</sup>highway, street, public thoroughfare, or] [<sup>F55</sup>road or in any] public place.

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If any gunpowder is hawked, sold, or exposed for sale in contravention of this section—

- (1) The person hawking, selling, or exposing for sale the same, shall be liable to a penalty not exceeding [<sup>F56</sup>£2] ; and
- (2) All or any part of the gunpowder which is so hawked or exposed for sale, or is found in the possession of any person convicted under this section, may be forfeited.

#### Textual Amendments

- F55** Words “road or in any” substituted (S.) for words “highway, street, public thoroughfare, or” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 7\(3\)](#)
- F56** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), [s. 10\(1\)](#)

### 31 Penalty for sale of gunpowder to children.

Gunpowder shall not be sold to [<sup>F57</sup>any person apparently under the age of sixteen] years; and any person selling gunpowder in contravention of this section [<sup>F58</sup>shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale]

#### Textual Amendments

- F57** Words substituted by [Explosives \(Age of Purchase etc.\) Act 1976 \(c. 19\)](#), [s. 10\(1\)](#)
- F58** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), ss. 41(2), 47(1)(2), 48, [Sch. 4 para. 1](#)

### 32 Sale of gunpowder to be in closed packages labelled.

All gunpowder exceeding [<sup>F59</sup>500 grams] in weight, when publicly exposed for sale or sold, shall be in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping, and (except when the same is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor or on such property,) the outermost receptacle containing such gunpowder shall have affixed the word “gunpowder” in conspicuous characters by means of a brand or securely attached label, or other mark.

If any gunpowder is sold or exposed for sale in contravention of this section—

- (1) The person selling or exposing for sale the same shall be liable to a penalty not exceeding [<sup>F60</sup>£2] ; and
- (2) All or any part of the gunpowder so exposed for sale may be forfeited.

#### Textual Amendments

- F59** Words substituted by [S.I. 1984/510](#), reg. 2, [Sch. 1](#)
- F60** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), [s. 10\(1\)](#)

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## Conveyance of Gunpowder

### [<sup>F61</sup>33] **General rules as to packing of gunpowder for conveyance.**

The following general rules shall be observed with respect to the packing of gunpowder for conveyance:

...  
F62

[<sup>F63</sup>In the event of any breach (by any act or default) of any general rule in this section, the person guilty of such breach shall be guilty of an offence.]]

The Secretary of State may from time to time make, and when made, repeal, alter, and add to, rules for the purpose of rescinding, altering, or adding to the general rules contained in this section, and the rules so made by the Secretary of State shall have the same effect as if they were enacted in this section.

#### Textual Amendments

- F61 S. 33 repealed (E.W.S.) (1.3.1992) by [S.I. 1991/2097](#), [reg. 14\(2\)](#)  
F62 Rules rescinded by S.R. & O. 1904/1221 (1904, p. 137)  
F63 Words substituted by [S.I. 1974/1885](#), [Sch. 2 para. 13](#)

### [<sup>F64</sup>34] **Byelaws by harbour authority as to conveyance, loading, &c. of gunpowder.**

Every harbour authority shall, with the sanction of the [<sup>F65</sup>Secretary of State], make byelaws for regulating the conveyance, loading and unloading of gunpowder within the jurisdiction of the said authority and in particular for declaring or regulating all or any of the following matters within the jurisdiction of the said authority; namely,

- (1) Determining the notice to be given by ships and boats conveying, loading, or unloading gunpowder as merchandise within the said jurisdiction; and
- (2) Regulating the navigation and place of mooring of such ships and boats; and
- (3) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping gunpowder on board any such ship or boat, and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder; and
- (4) Regulating the description, construction, fitting up, and licensing of the ships, boats, or carriages to be used for the conveyance of gunpowder, and the licensing and dress of the persons having charge thereof; and
- (5) Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive or any articles or substances, or in passenger ships, boats, trains, or carriages; and
- (6) Prohibiting in cases where the loading or unloading of gunpowder within the jurisdiction of such authority appears to be specially dangerous to the public such loading or unloading, and fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one ship, boat, or carriage; and
- (7) Regulating the mode of and the precautions to be observed in conveying any gunpowder, and in the loading or unloading any ship, boat, or carriage conveying gunpowder as merchandise, and the time during which gunpowder may be kept during such conveyance, loading or unloading; and



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- (8) Fixing the times at which lights or fires are to be allowed or not allowed on board such ships or boats, as before mentioned, or at which a constable or officer of the harbour authority is to be on board them; and
- (9) Providing for the publication and supply of copies of the byelaws; and
- (10) Enforcing the observance of this Act both by their own servants and agents and also by other persons when within the said jurisdiction; and
- (11) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

The penalties to be annexed to any breach or attempt to commit any breach of any such byelaws 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, pecuniary penalties not exceeding [<sup>F66</sup>£100] for each offence, and ten pounds 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 ship, boat, or carriage in respect of which, the breach of byelaw has taken place.

In the event of any breach of a byelaw under this section in the case of any ship, boat, carriage, or gunpowder, whether there has or has not been any conviction for such breach, it shall be lawful for the harbour-master, or other officer named in the byelaws, or any person acting under the orders of the harbour authority, to cause such ship, boat, carriage, 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 byelaws; and all expenses incurred in such removal may be recovered in the same manner as a penalty under this section; and any person resisting such harbour-master or officer or other person in such removal shall be liable to the same penalties as a person is liable to for obstructing the harbour-master in the execution of his duty.

On any part of the coast of the United Kingdom or in any tidal water for which there is no harbour authority, the [<sup>F65</sup>Secretary of State] may, if [<sup>F65</sup>he thinks] it expedient, make byelaws under this section for that part or water as if it were a harbour and [<sup>F65</sup>he] were the harbour authority, and such byelaws shall be deemed to have been made by a harbour authority with the sanction of the [<sup>F65</sup>Secretary of State] ; and [<sup>F65</sup>he] may by such byelaws define the area within which such byelaws are to be observed, and the authorities and officers by whom such byelaws are to be enforced and carried into effect within such area; and every such authority and officer shall for the purposes of this Act, other than making byelaws or assenting to a site for a new factory or magazine, have the same power within the said area as a harbour authority and an officer of a harbour authority have respectively under this Act in a harbour.]

#### Textual Amendments

- F64** S. 34 repealed (E.W.S.) by [S.I. 1987/37](#), [reg. 47\(1\)\(a\)](#)
- F65** Words substituted by virtue of [Ministry of Transport Act 1919 \(c. 50\)](#), s. 2, [Sch. 1 para. 1](#), S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), arts. 2, 3, 1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1)(3), [S.I. 1953/1204](#) (1953 I, p. 1225), art. 3(1), 1959/1768 (1959 I, p. 1793) art. 3(2) and 1970/1681, arts. 2(1), 6(3)
- F66** Words substituted by [Criminal Justice Act 1967 \(c. 80\)](#), s. 92, [Sch. 3 Pt. II](#)

#### Modifications etc. (not altering text)

- C15** S. 34 amended by [Explosives Act 1923 \(c. 17\)](#), s. 4



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### **35 Byelaws by railway and canal company as to conveyance, loading, &c. of gunpowder.**

Every railway company and every canal company over whose railway or canal any gunpowder is carried, or intended to be carried, shall, with the sanction of the [<sup>F67</sup>Secretary of State], make byelaws for regulating the conveyance, loading, and unloading of such gunpowder on the railway or canal of the company making the byelaws, and in particular for declaring and regulating all or any of the following matters in the case of such railway or canal; that is to say,

- (1) Determining the notice to be given of the intention to send gunpowder for conveyance as merchandise on the railway or canal; and
- (2) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping gunpowder for conveyance and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder; and
- (3) Regulating the description and construction of carriages, ships, or boats to be used in the conveyance of gunpowder; and
- (4) Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger trains, carriages, ships, or boats; and
- (5) Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time, or in one carriage, ship, or boat; and
- (6) Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages, ships, and boats used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading, and unloading; and
- (7) Providing for the publication and supply of copies of the byelaws; and
- (8) Enforcing the observance of this Act both by their servants and agents and also by other persons when on the canal or railway of such company; and
- (9) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

Such byelaws, when confirmed by the [<sup>F67</sup>Secretary of State], shall apply to the railway, canal, agents, and servants of the company making the same, and to the persons using such railway or canal, or the premises connected therewith and occupied by or under the control of such company.

The penalties to be annexed to any breach or attempt to commit any breach of any such byelaws 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, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding [<sup>F68</sup>£100] for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or being in the carriage, ship, or boat or train of carriages, ships, or boats in respect of which, the breach of byelaw has taken place.

#### **Textual Amendments**

**F67** Words substituted by virtue of [Ministry of Transport Act 1919 \(c. 50\)](#), s. 2, [Sch. 1 para. 1](#), S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), arts. 2, 3,

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1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1)(3), S.I. 1953/1204 (1953 I, p. 1225), art. 3(1), 1959/1768 (1959 I, p. 1793) art. 3(2) and 1970/1681, arts. 2(1), 6(3)

**F68** Words substituted by [Criminal Justice Act 1967 \(c. 80\)](#), s. 92, **Sch. 3 Pt. II**

#### Modifications etc. (not altering text)

**C16** [S. 35](#) excluded (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. 71(3)(a), Sch. 6 para. (1)

**C17** [S. 35](#) modified (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. 71(3)(a), Sch. 6 para. 1(4)

### [<sup>F69</sup>36 **Byelaws as to wharves in which gunpowder is loaded or unloaded.**

The occupier of every wharf or dock on or in which gunpowder is loaded or unloaded (if such loading or unloading is not otherwise subject to any byelaws under this Act) may, and if so required by the Secretary of State shall, from time to time, with the sanction of the Secretary of State, make byelaws for regulating the loading and unloading of gunpowder on or in such wharf or dock, and in particular for declaring or regulating all or any of the matters which can be declared or regulated in the case of any wharf or dock within the jurisdiction of a harbour authority by byelaws made by such authority in pursuance of this Act.

The penalties to be annexed to any breach, or attempt to commit any breach, of any such byelaws 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, pecuniary penalties not exceeding [<sup>F70</sup>£100] for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found on the wharf or in the dock or part of the wharf or dock in respect of which, the breach of byelaw has taken place.

Any byelaws made in pursuance of this section may, and if required by the Secretary of State shall, be rescinded, altered, or added to by byelaws made by the occupier, with the sanction of the Secretary of State.

If an occupier is required by the Secretary of State to make byelaws under this section for any matter, and fail within three months after such requisition to comply therewith to the satisfaction of the Secretary of State, the Secretary of State may make such byelaws, which shall have effect as if made by the occupier with the sanction of the Secretary of State.

Where by reason of a wharf being a public wharf or otherwise, there is no occupier thereof, or the occupier thereof is unknown, the Secretary of State may make byelaws with respect to such wharf in like manner as if the occupier had failed to comply with his requisition: Provided that where such wharf abuts on any harbour, canal, or railway, the harbour authority or canal or railway company shall have the same power, and, if so required by the Secretary of State, shall be under the same obligation to make byelaws under this section for such wharf as if they were the occupiers thereof.]

#### Textual Amendments

**F69** [S. 36](#) repealed (E.W.S.) (only in so far as that section applies within harbours and harbour areas) by [S.I. 1987/37](#), **reg. 47(1)(a)**

**F70** Words substituted by [Criminal Justice Act 1967 \(c. 80\)](#), s. 92, **Sch. 3 Pt. II**

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37 ..... F71

**Textual Amendments**

**F71** Ss. 25, 37 repealed by [S.I. 1974/1885, Sch. 1](#)

**38 Confirmation and publication of byelaws.**

Any recommendation to Her Majesty in Council, any general rules with respect to packing, and any byelaws which is or are proposed to be made under this Act by [<sup>F72</sup>the Secretary of State] shall, before being so made, be published in such manner as the Secretary of State . . . <sup>F73</sup>, as the case may be, may direct as being in his . . . <sup>F73</sup> opinion sufficient for giving information thereof to all local authorities, corporations, and persons interested.

The byelaws framed by any railway company, canal company, or harbour authority under this Act shall before being sanctioned by the [<sup>F72</sup>Secretary of State] , be published in such manner as may be directed by the [<sup>F72</sup>Secretary of State] , with a notice of the intention of such company or authority to apply for the confirmation thereof, and may be sanctioned by the [<sup>F72</sup>Secretary of State] with or without any omission, addition, or alteration, or may be disallowed.

Every such byelaw may be from time to time added to, altered or rescinded by a byelaw made in like manner and with the like sanction as the original byelaw.

The Secretary of State . . . <sup>F73</sup> shall receive and consider any objections or suggestions made by any local authority, corporation, or persons interested with respect to any recommendation, general rules, or byelaws published in pursuance of this section, and may, if it seem fit, amend such recommendation, general rules, or byelaws with a view of meeting such objections or suggestions without again publishing the same.

**Textual Amendments**

**F72** Words substituted by virtue of [Ministry of Transport Act 1919 \(c. 50\), s. 2, Sch. 1 para. 1](#), S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), arts. 2, 3, 1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1)(3), [S.I. 1953/1204](#) (1953 I, p. 1225), art. 3(1), 1959/1768 (1959 I, p. 1793) art. 3(2) and 1970/1681, arts. 2(1), 6(3)

**F73** Words omitted by virtue of [Ministry of Transport Act 1919 \(c. 50\), s. 2, Sch. 1 para. 1](#), S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), arts. 2, 3, 1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1)(3), [S.I. 1953/1204](#) (1953 I, p. 1225), art. 3(1), 1959/1768 (1959 I, p. 1793) art. 3(2) and 1970/1681, arts. 2(1), 6(3)

**PART II.—LAW RELATING TO OTHER EXPLOSIVES**

**Modifications etc. (not altering text)**

**C18** Power to grant exemption from provisions of Pt. I (except ss. 30–32) and Pt. II conferred by [S.I. 1979/1378, art. 2](#)

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*Application of Part I. to other Explosives*

**39 Part I. relating to gunpowder applied to other explosives.**

Subject to the provisions hereafter in this part of this Act contained, Part One of this Act relating to gunpowder shall apply to every other description of explosive, in like manner as if those provisions were herein re-enacted with the substitution of that description of explosive for gunpowder.

**40 Modification of Part I. as applied to explosives other than gunpowder.**

The following modifications and additions shall be made in and to Part One of this Act as applied to explosives other than gunpowder:

- (1) The draft license for a factory or magazine submitted by an applicant to [<sup>F74</sup>the Health and Safety Executive] shall specify such particulars as [<sup>F74</sup>the Health and Safety Executive] may require; and
- (2) The prescribed general rules shall be substituted for the general rules in Part One of this Act relating to factories, magazines, stores, and registered premises respectively; but no such general rule shall require the removal of any building or work in use at the date of the Order in Council by which such rule is made;
- <sup>F75</sup>(3) The Secretary of State may from time to time alter the general rules relating to packing contained in Part One of this Act for the purpose of adapting the same to the packing of any explosive other than gunpowder; and]
- (4) For the maximum amount limited by Part One of this Act to be kept [<sup>F76</sup>for private use and not for sale, or] in a store, and for the minimum amount limited by Part One of this Act to be exposed for sale or sold otherwise than in a substantial case, box, canister, or other receptacle as therein mentioned, there shall be substituted in the case of explosives other than gunpowder the following amounts; namely,
  - (a) Where such explosive consists of safety cartridges made with gunpowder, an amount containing not more than five times the maximum or minimum amount of gunpowder, as the case may be, above mentioned; and
  - (b) In the case of any other explosive, the prescribed amount; and
- (5) Two or more descriptions of explosives shall not be kept in the same store or registered premises except such descriptions as may be prescribed in that behalf; and, when so kept, shall be kept subject to the prescribed conditions and restrictions; and
- (6) Where any explosive, other than gunpowder, is allowed to be kept in the same store or registered premises with gunpowder, the maximum amount of gunpowder to be kept therein shall be the prescribed amount in lieu of the amount fixed by Part One of this Act; and
- (7) Where any explosive, other than gunpowder, is allowed to be kept in the same magazine, store, or registered premises with gunpowder, the prescribed general rules shall be observed instead of the general rules in Part One of this Act; and
- (8) There shall be on the outermost package containing the explosive in lieu of the word “gunpowder” the name of the explosive, with the addition of the word “explosive,” and if such name is materially false the person selling or exposing for sale such explosive, and also the owner of the explosive, shall be liable to a penalty not exceeding fifty pounds:

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- [<sup>F77</sup>(9) No person shall supply any explosive (other than gunpowder) unless the explosive—
- (a) conforms in composition, character and quality to the description of the explosive in a list signed by an inspector appointed by the Health and Safety Executive and duly authorised for that purpose, corresponding to the name of that explosive as shown in such list and in “List of Authorised Explosives” issued by the Health and Safety Executive <sup>F78</sup>, such list and List as revised or re-issued from time to time; and
  - (b) has been classified in accordance with any Order in Council made under section 106 of this Act and for the time being in force which defines, for the purposes of this Act, the composition, quality and character of any explosive <sup>F79</sup>.
- (10) The Health and Safety Executive shall ensure that any explosive which satisfies the requirements of sub-paragraphs (a) to (c) of regulation 4(1) of the Placing on the Market and Supervision of Transfers of Explosives Regulations 1993 (S.I. 1993/2714) is classified in accordance with any Order in Council made under section 106 of this Act and is included in the list and in “List of Authorised Explosives” mentioned in sub-section (9)(a) of this section.
- (11) In sub-section (9) of this section, “supply” shall be construed in accordance with section 46 of the Consumer Protection Act 1987 (1987 c.43).]

#### Textual Amendments

- F74** Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 3](#)
- F75** [S. 40\(3\)](#) repealed (E.W.S.) (1.3.1992) by [S.I. 1991/2097, reg. 14\(2\)](#)
- F76** Words in [s. 40\(4\)](#) repealed (E.W.S.) (1.11.1991) by [S.I. 1991/1531, reg. 19, Sch. 4 Pt.I](#) (with [reg. 19\(6\)](#))
- F77** Subsections (9)-(11) of [s. 40](#) substituted (1.12.1993) for [s. 40\(9\)](#) by [S.I. 1993/2714, reg. 12\(1\), Sch. 4 Pt. I para. 1](#) except in its application to N.I., and as it applies to acetylene by virtue of Order of Council (No. 30) dated 2.2.1937.
- F78** The list current when these Regulations are made is "List of Authorised Explosives 1992", ISBN 0 11 886396 7, published by HMSO.
- F79** The Orders in force at the date of making these Regulations are Order in Council (No. 1) dated 5th August 1875 (Rev. VII p. 1) and Order in Council (No. 1B) dated 11th April 1913 (S.R. & O. 1913/481).

#### Modifications etc. (not altering text)

- C19** [S. 40](#) extended by [Fireworks Act 1951 \(c. 58\), s. 5\(5\)](#)

#### [<sup>F80</sup>41 Exception of safety cartridges **E+W+S**

Nothing in this Act shall apply to the filling or conveying for private use and not for sale of any safety cartridges to the amount allowed by the Control of Explosives Regulations 1991 to be kept for private use within the meaning of those Regulations.]

#### Textual Amendments

- F80** [S. 41](#) substituted (E.W.S.) (1.11.1991) by [S.I. 1991/1531, reg. 19, Sch. 4 Pt. I](#)

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**41 Exemption of making and carrying safety cartridges for private use. N.I.**

Nothing in this Act shall apply to the filling or conveying for private use and not for sale, of any safety cartridges to the amount allowed by this Act to be kept for private use.

**Extent Information**

**E2** This version of this provision extends to Northern Ireland only; separate version has been created for England and Wales and Scotland only.

**42** ..... **F81**

**Textual Amendments**

**F81** S. 42 repealed by [Merchant Shipping Act 1894 \(c. 60\)](#), [Sch. 22](#)

*Specially dangerous Explosives*

**43 Power to prohibit manufacture, importation, storage, and carriage of specially dangerous explosives.**

Notwithstanding anything in this Act, Her Majesty from time to time, by Order in Council, may prohibit, either absolutely, or except in pursuance of a licence of [<sup>F82</sup>the Health and Safety Executive] under this Act, or may subject to conditions or restrictions the manufacture, keeping, importation from any place out of the United Kingdom, conveyance, and sale, or any of them, of any explosive which is of so dangerous a character that, in the judgment of Her Majesty, it is expedient for the public safety to make such order:

Provided that such order shall not absolutely prohibit anything which may be lawfully done in pursuance of any continuing certificate under this Act.

Any explosive manufactured or kept in contravention of any such order shall be deemed to be manufactured or kept, as the case may be, in an unauthorised place.

Any explosive conveyed in contravention of any such order shall be deemed to be conveyed in contravention of a byelaw made under this Act with respect to the conveyance of explosives.

[<sup>F83</sup>If any explosive is imported or sold in contravention of any such Order, the owner or master of the ship in which it was imported, the person to whom it was delivered and the person selling the same shall each be guilty of an offence and liable to the penalties specified in section 33(3) of the <sup>M4</sup>Health and Safety at Work, etc. Act 1974.]

[<sup>F84</sup>The Commissioners of Customs and Excise] and their officers shall have the same power with respect to any such explosive, and the ship containing the same, as they have for the time being with respect to any article prohibited to be imported by the law relating to [<sup>F85</sup>customs or excise], and the ship containing the same, and the enactments for the time being in force relating to [<sup>F85</sup>customs or excise] and any such article or ship shall apply accordingly.

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#### Textual Amendments

- F82** Words substituted by virtue of S.I. 1974/1885, [Sch. 2 para. 3](#)
- F83** Words substituted by [S.I. 1974/1885, Sch. 2 para. 15](#)
- F84** Words substituted by virtue of [Customs and Excise Act 1952 \(c. 44\), s. 318\(1\), Sch. 10 Pt. I](#)
- F85** Words substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\), reg. 2, Sch. 4 para. 12](#)

#### Modifications etc. (not altering text)

- C20** Power to extend s. 43 conferred by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), s. 3\(2\)](#)

#### Marginal Citations

- M4** [1974 c. 37.](#)

### *Provisions in favour of certain Manufacturers and Dealers*

#### **44 Provision in favour of makers, &c. of blasting cartridges.**

The occupier of a factory for any explosive shall not be required by this Act to take out a factory license for making up on such factory the explosive made thereon into cartridges or charges for cannon or blasting not containing within themselves their own means of ignition.

The occupier of any magazine, store, or registered premises for keeping any explosive may keep that explosive when made up into such cartridges or charges as above in this section mentioned, as if it were not so made up, and the provisions of this Act with respect to the keeping of any explosive shall apply to the keeping of that explosive when made up into the said cartridges or charges, in like manner as if the explosive were not so made up.

#### **45 Provision in favour of makers of new explosive for experiment.**

The occupier of a factory for any explosive who manufactures a new explosive or new form of explosive similar to the one specified in his license, shall not be deemed to have manufactured the same in an unauthorised place if he manufacture the same on a small scale, and exclusively for the purpose of trial and not for sale, and he send notice of the same, as soon as he has manufactured it, to [<sup>F86</sup>the Health and Safety Executive], and if he observe the provisions of this Act, so far as they are applicable.

#### Textual Amendments

- F86** Words substituted by virtue of S.I. 1974/1885, [Sch. 2 para. 3](#)

#### **46 Provision in favour of gunmakers, &c. making cartridges.**

The occupier of a magazine, store, or registered premises for any explosive shall not be required by this Act to take out a factory license by reason that in connexion with such magazine, store, or premises he fills for sale or otherwise any cartridge for small arms with the said explosive, so that he observe the following regulations; namely,



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- (1) There shall not be in the room in which such filling is being carried on more than [<sup>F872</sup> kilograms] of gunpowder, or the prescribed amount of any other explosive, except it is made up into safety cartridges; and
- (2) Any work unconnected with the making of the cartridges shall not be carried on in the room while such filling is being carried on; and
- (3) There shall not be in the room while such filling is being carried on any fire nor any artificial light, except a light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (4) In the case of a magazine or store, the room in which the filling is carried on shall be detached from the magazine or store, but in the immediate neighbourhood thereof, and at such distance therefrom as may be specified in the case of a magazine by the license, and in the case of a store by an Order in Council relating to stores; and
- (5) The occupier shall give notice in the case of a magazine to [<sup>F88</sup>the Health and Safety Executive] , and in the case of a store or registered premises to the local authority, that he intends to carry on such filling of cartridges as is allowed by this section.

Provided that this section shall not, except with the consent of [<sup>F88</sup>the Health and Safety Executive] , apply to any magazine or store for which a continuing certificate has been obtained under this Act, which consent [<sup>F88</sup>the Health and Safety Executive] , if satisfied that the filling of cartridges in accordance with this section ought (due regard being had to the safety of the public) to be allowed, may grant either absolutely or upon such conditions as [<sup>F88</sup>it] may, under the special circumstances of the case, think expedient to secure the safety of the public.

The regulations in this section and any conditions so made by [<sup>F88</sup>the Health and Safety Executive] as last aforesaid, shall be deemed to be general rules under this Act relating to the magazine, store, and registered premises respectively, and the breach of them shall be punished accordingly.

#### Textual Amendments

**F87** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)

**F88** Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 3](#)

#### 47 Provision in favour of owners of mines and quarries, as to making charges, &c. for blasting.

The occupier of any magazine or store for any explosive shall not be required by this Act to take out a factory license by reason that, in connexion with such magazine or store, he, by filling cartridges, making charges, drying, sifting, fitting, or otherwise adapts or prepares the said explosive for use exclusively in his mine or quarry, or in some excavation or work carried on by him or under his control, so that he observe the following regulations; namely,

- (1) There shall not be in the workshop in which such adaptation or preparation is carried on more than [<sup>F89</sup>50 kilograms] of gunpowder or the prescribed amount of any other explosive; and
- (2) Any work unconnected with such adaptation or preparation shall not be carried on in the said workshop while such adaptation or preparation is being carried on; and

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- (3) The said workshop shall be detached from the magazine or store, but in the immediate neighbourhood thereof, and such distance therefrom as may be specified, in the case of a magazine by the license, and in the case of a store by an Order in Council relating to stores; and
- (4) An explosive of one description shall not be converted into an explosive of another description, and shall not be unmade or resolved into its ingredients; and
- (5) The occupier shall give notice in the case of a magazine to [F90the Health and Safety Executive] , and in the case of a store to the local authority, that he intends to carry on such adaptation or preparation as is allowed by this section.

Provided that this section shall not, except with the consent of [F90the Health and Safety Executive] , apply to any magazine or store for which a continuing certificate has been obtained under this Act, which consent [F90the Health and Safety Executive] , if satisfied that the adaptation or preparation in accordance with this section ought (due regard being had to the safety of the public) to be allowed, may grant either absolutely or upon such conditions as [F90it] may, under the special circumstances of the case, think expedient to secure the safety of the public.

The regulations in this section, and any conditions so made by [F90the Health and Safety Executive] as last aforesaid, shall be deemed to be general rules under this Act relating to the magazine and store respectively, and the breach of them shall be punished accordingly.

The following general rules shall apply as if the said workshop were a danger building, that is to say, if the adaptation or preparation carried on is of gunpowder only, the general rules with respect to a factory in Part One of this Act, and in any other case the prescribed general rules; and the breach of such general rules shall be punished in like manner as the breach of general rules with respect to a factory.

#### Textual Amendments

**F89** Words substituted by S.I. 1984/510, reg. 2, Sch. 1

**F90** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

#### 48 Provision in favour of small firework manufacturer who may obtain a license from the local authority.

A firework factory shall not be deemed to be a small firework factory for the purposes of this Act if there is upon the same factory at the same time—

- (a) More than [F9150 kilograms] of any explosive other than manufactured fireworks and coloured fires and stars; or
- (b) More than [F91250 kilograms] pounds of manufactured fireworks, either finished or partly finished; or
- (c) More than [F9112 kilograms] of coloured fires or stars, not made up into manufactured fireworks.

The occupier of a small firework factory shall not be required to obtain a license under Part One of this Act for such factory if he has obtained [F92a licence under the next following section].

*Status: Point in time view as at 01/12/1993.*

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A person having [<sup>F92</sup>a licence under the next following section] who manufactures an explosive (other than nitro–glycerine or any prescribed explosive) for the purpose only of the manufacture of coloured fires or a manufactured firework in accordance with this Act, and does not sell the same except in the form of coloured fires packed in the manner required by this Act, or of a manufactured firework, shall not be deemed to manufacture an explosive in an unauthorised place.

#### Textual Amendments

- F91** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)  
**F92** Words substituted by [Fireworks Act 1951 \(c. 58\), s. 7\(3\)](#)

#### 49 †Licensing by local authority and regulation of small firework factories.

Any person may apply for a small firework factory license to [<sup>F93</sup>the Health and Safety Executive] at the time and place appointed by [<sup>F93</sup>it] , stating his name, address, and calling, and the proposed site and construction of the factory, and the amount and description of explosive he proposes to have therein, and in any building therein; and [<sup>F93</sup>the Health and Safety Executive] shall, as soon as practicable, if the proposed site, construction of the factory, and amount of explosive is in accordance with the Order in Council regulating small firework factories, grant to the applicant, on payment of such fee, not exceeding [<sup>F94</sup>25p] , as may be fixed by [<sup>F93</sup>the Health and Safety Executive] , the license applied for.

The powers of this Act of making Orders in Council with respect to stores and of prescribing general rules with respect to stores shall extend to making Orders in Council and prescribing general rules with respect to small firework factories and the buildings thereon; and any breach (by any act or default) of any such general rule shall involve the same penalties and forfeitures as a breach of a general rule relating to stores.

A small firework factory license shall be valid only for the person named in it, and the provisions of this Act with respect to the renewal, expiration, and form of store licenses, and fees for such renewal, and to special rules for the regulation of persons managing or employed in or about stores, shall apply in like manner as if they were herein enacted, and in terms made applicable to small firework factory licenses and small firework factories respectively.

#### Textual Amendments

- F93** Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 3](#)  
**F94** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

#### Modifications etc. (not altering text)

- C21** A dagger appended to a marginal note means that it is no longer accurate  
**C22** Power to amend s. 49 conferred by [Public Expenditure and Receipts Act 1968 \(c. 14\), s. 5\(1\), Sch. 3 para. 4](#)  
**C23** S. 49 amended by [Fireworks Act 1951 \(c. 38\), s. 7\(1\)\(2\)](#)

*Status: Point in time view as at 01/12/1993.*

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**50 Keeping without a license and conveyance of percussion caps, &c.**

A person shall not be required by this Act to take out a license or to register any premises for the keeping of [<sup>F95</sup>percussion caps, or safety-fuzes for blasting, or] fog-signals kept by any railway company for use on the railway of such company, or any prescribed explosive.

It shall not be obligatory on any harbour authority, railway company, canal company, or occupier of a wharf, to make any byelaws with respect to the conveyance, loading, or unloading of any explosives to which this section applies.

It shall be lawful for Her Majesty, by Order in Council, to exempt any explosive to which this section applies, or any description thereof, from any other of the provisions of this Act, or to declare that a license shall be required for the keeping of any explosive to which this section applies, or any description thereof, or that byelaws shall be made with respect to the loading, unloading, and conveyance thereof.

**Textual Amendments**

**F95** Words in s. 50 deleted (E.W.S.)(1.11.1991) by S.I. 1991/1531, reg. 19, Sch. 4 Pt.I (with reg. 19(6))

*Existing Factories, Magazines, and Stores*

**51 Application of Part I. of the Act to existing factories and magazines.**

In any continuing certificate for a lawfully existing factory or magazine for any explosive other than gunpowder, the regulations set out in the First Schedule to this Act shall not form part of the terms of such certificate, but in lieu thereof the Secretary of State shall insert in the certificate as the terms thereof,—

- (1) If the factory or magazine is for dynamite or any substance having nitro-glycerine as one of its component parts or ingredients, the conditions contained in the existing license, with such modifications (if any) as the Secretary of State may think necessary in order to bring the same into conformity with this Act, and also any limitation of time for the expiration of the license contained in the existing license, and also the existing power of the Secretary of State to revoke the license; and
- (2) In any other case, such terms as the Secretary of State may think expedient, having regard to the conditions (if any) contained in the license under which the factory or magazine is established; and such terms shall include any limitation of time contained in such license, but shall not require the removal of any lawfully existing building or work.

If a new license under this Act is obtained for keeping in an existing gunpowder store any explosive other than gunpowder, the continuing certificate of such store shall be determined, and the store shall cease to be deemed to be an existing gunpowder store within the meaning of this Act.

*Status: Point in time view as at 01/12/1993.*

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#### Textual Amendments

**F96** S. 52 repealed by [Statute Law Revision Act 1898 \(c. 22\)](#)

### PART III.—ADMINISTRATION OF LAW

#### *Government Supervision*

#### *Inspection*

53— ..... <sup>F97</sup>  
57.

#### Textual Amendments

**F97** Ss. 53–57, 59, 62, 65, 66 repealed by [S.I. 1974/1885, Sch. 1](#)

#### 58 **Inspection by railway inspectors or inspectors of Board of Trade.**

The Board of Trade may from time to time, by order, direct—

- (a) Any person acting under the Board as an inspector of railways to inquire into the observance of this Act by any railway company or canal company, and generally to act with respect to any railway or canal as an inspector under this Act; or
- (b) Any person acting under the Board as an inspector or otherwise for the purposes of the [<sup>F98M5</sup>Merchant Shipping Act 1894], or the Acts amending the same, to inquire into the observance of this Act in any harbour or in the case of any ship, and generally to act in such harbour and with respect to ships as an inspector under this Act.

The Board of Trade may revoke any such order; and each such inspector shall, while such order is in force, have for that purpose the same powers and authorities as he has under the Acts in pursuance of which he was originally appointed inspector, and also [<sup>F99</sup>the power conferred on inspectors by the <sup>M6</sup>Health and Safety at Work etc. Act 1974.]

#### Textual Amendments

**F98** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

**F99** Words substituted by [S.I. 1974/1885, Sch. 2 para. 16](#)

#### Modifications etc. (not altering text)

**C24** Functions of Board of Trade under s. 58 transferred by [Ministry of Transport Act 1919 \(c. 50\), s. 2](#), S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), art. 2, 1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1), [S.I. 1953/1204](#) (1953 I, p. 1225), art. 3(1) and 1959/1768 (1959 I, p. 1793), art. 3(2) now exercisable (except s. 58(b) so far as relates to ships) by Secretary of State: [S.I. 1970/1681, art. 2\(1\)](#) (s. 58(b) so far as relates to ships) concurrently by Secretary of State: [S.I. 1965/145, art. 2, Sch. 1](#) and 1970/1537, art. 2(1)(a)

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**Marginal Citations**

**M5** 1894 c. 60.

**M6** 1974 c. 37.

59 ..... **F100**

**Textual Amendments**

**F100** Ss. 53–57, 59, 62, 65, 66 repealed by S.I. 1974/1885, **Sch. 1**

**60** †**License and special rules certified by Government inspector to be evidence.**

A copy of any license confirmed by the Secretary of State under this Act, and of any special rules under this Act, certified by [<sup>F101</sup>an inspector appointed by the Health and Safety Executive under section 19 of the <sup>M7</sup>Health and Safety at Work etc. Act 1974], shall be evidence of such license and special rules respectively, and of the fact of such license having been duly granted and confirmed and such special rules duly established under this Act.

**Textual Amendments**

**F101** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 5**

**Modifications etc. (not altering text)**

**C25** Unreliable marginal note

**Marginal Citations**

**M7** 1974 c. 37.

**61** †**Keeping and carriage of samples by Government inspector.**

[<sup>F102</sup>An inspector appointed by the Health and Safety Executive under section 19 of the <sup>M8</sup>Health and Safety at Work etc. Act 1974], and any other person authorised by him for the purpose, may keep and convey any sample taken for the purposes of this Act by or by authority of such inspector, so that the amount of it do not exceed what is reasonably necessary for the purpose of enabling such inspector to perform his duties under this Act, and be kept and carried with all due precautions to prevent accident; and such inspector or person shall not be liable to any penalty, punishment, or forfeiture under this or any other Act for keeping or conveying such sample.

**Textual Amendments**

**F102** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 5**

**Modifications etc. (not altering text)**

**C26** Unreliable marginal note

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#### Marginal Citations

M8 1974 c. 37.

62

F103

#### Textual Amendments

F103 Ss. 53–57, 59, 62, 65, 66 repealed by S.I. 1974/1885, Sch. 1

### Accidents

#### 63 Notice to be given of accidents connected with explosive.

Whenever there occurs any accident by explosion or by fire in or about or in connexion with any factory, magazine, or store, or any accident by explosion or by fire causing loss of life or personal injury in or about or in connexion with any registered premises, the occupier of such factory, magazine, store, or premises shall forthwith send or cause to be sent notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to [<sup>F104</sup>the Health and Safety Executive] . . . <sup>F105</sup>

Where in, about, or in connexion with any carriage, ship, or boat, either conveying an explosive, or on or from which an explosive is being loaded or unloaded, there occurs any accident by explosion or by fire causing loss of life or personal injury, or if the amount of explosive conveyed or being so loaded or unloaded exceeds in the case of gunpowder [<sup>F106</sup>500 kilograms] , and in the case of any other explosive the prescribed amount, any accident by explosion or by fire, the owner or master of such carriage, ship, or boat, and the owner of the explosive conveyed therein or being loaded or unloaded therefrom, or one of them, shall forthwith send or cause to be sent notice of such accident, and of the loss of life or personal injury, if any, occasioned thereby, to [<sup>F104</sup>the Health and Safety Executive].

Every such occupier, owner, or master as aforesaid who fails to comply with this section shall be [<sup>F107</sup>guilty of an offence].

#### Textual Amendments

F104 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

F105 Words repealed by S.I. 1974/1885, Sch. 1

F106 Words substituted by S.I. 1984/510, reg. 2, Sch. 1

F107 Words substituted by S.I. 1974/1885, Sch. 2 para. 18

#### 64 Reconstruction of buildings destroyed by accident.

Where an accident by explosion or fire has occurred in, and wholly or partly destroyed a factory magazine, or any magazine or store, the factory magazine, magazine, or store shall not be reconstructed, and any further supply of an explosive shall not be put therein, except with the permission of [<sup>F108</sup>the Health and Safety Executive] ; and any explosive put therein in contravention of this section shall be deemed to be kept in an unauthorised place, and the offence may be punished accordingly:



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Provided, that this enactment shall not prevent the reconstruction of a factory magazine in any lawfully existing factory upon such site in the factory, and with such precautions as may seem reasonable to [F108the Health and Safety Executive] , due regard being had to the working of the factory as well as to the safety of the public and of the persons employed therein.

Where an accident by explosion or fire in a factory has wholly or partly destroyed any building of such factory as to which [F109an inspector appointed by the Health and Safety Executive under section 19 of the M9Health and Safety at Work etc. Act 1974] has previously to the accident sent to the occupier a notice that the building is unduly near to some building or work outside the factory, such building shall be reconstructed only upon such site in the factory and with such precautions as may seem reasonable to [F108the Health and Safety Executive] , due regard being had to the working of the factory as well as to the safety of the public and of the persons employed therein.

Where an accident by explosion or by fire in a factory has wholly or partly destroyed two or more buildings in such factory, not more than one of such buildings shall be reconstructed except with the permission of [F108the Health and Safety Executive] ; provided that this enactment shall not apply to any buildings in a lawfully existing factory, if either both or all such buildings are incorporating mills, or if as regards any other buildings [F109an inspector appointed by the Health and Safety Executive under section 19 of the M10Health and Safety at Work etc. Act 1974] has not previously to the accident sent to the occupier a notice that such buildings are unduly near to each other.

Where a building is constructed on a different site in pursuance of this section, [F108the Health and Safety Executive] shall cause the necessary alterations to be made in the license; and such alterations shall be deemed to be part of the license.

The reconstruction of any building in contravention of this section shall be deemed to be a breach of the terms of the license, and shall be punished accordingly.

**Textual Amendments**

**F108** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

**F109** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 5

**Marginal Citations**

**M9** 1974 c. 37.

**M10** 1974 c. 37.

**65, 66.** ..... F110

**Textual Amendments**

**F110** Ss. 53–57, 59, 62, 65, 66 repealed by S.I. 1974/1885, Sch. 1

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*Local Supervision*

*Definition and Powers of Local Authority*

**67 Definition of local authority.**

The local authority for the purposes of this Act, shall be—

(1) In the city of London, except as hereafter in this section mentioned, the court of the Lord Mayor and aldermen of the said city; and

(2) ..... <sup>F111</sup>

[<sup>F112</sup>(3) Outside Greater London [<sup>F113</sup>and a metropolitan county]] , the council of a county; and

[<sup>F114</sup>(3A) In a metropolitan county, the fire authority; and]

(4) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority, before in this section mentioned, the harbour authority, to the exclusion of any other local authority; and

(5) ..... <sup>F115</sup>

**Textual Amendments**

**F111** S. 67(2) repealed by [London Government Act 1963 \(c. 33\)](#), **Sch. 18 Pt. II**

**F112** S. 67(3) substituted by [Local Government Act 1972 \(c. 70\)](#), **Sch. 29 para. 19**

**F113** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 37, **Sch. 11 para. 3**

**F114** S. 67(3A) inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 37, **Sch. 11 para. 3**

**F115** S. 67(5) repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

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**Modifications etc. (not altering text)**

**C27** S. 67 explained by [London Government Act 1963 \(c. 33\)](#), **s. 50(1)(3)**

**C28** Functions of court of Lord Mayor and aldermen of city of London under this Act now exercisable by common council: [Local Government Act 1888 \(c. 41\)](#), **s. 41(1)(a)**

**68** ..... <sup>F116</sup>

**Textual Amendments**

**F116** S. 68 repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

**69 †Duty of local authority and power of officer.**

It shall be the duty of every local authority to carry into effect within their jurisdiction the powers vested in them under this Act.

... <sup>F117</sup>

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#### Textual Amendments

F117 Words repealed by S.I. 1974/1885, Sch. 1

#### Modifications etc. (not altering text)

C29 A dagger appended to a marginal note means that it is no longer accurate

### 70 Expenses of local authority.

All expenses incurred by any local authority in carrying into effect the execution of this Act, including the salary and expenses of any officer directed by them to act under this Act shall be paid out of the local rate. The local rate shall for the purposes of this Act mean as follows; that is to say,

... F118  
...

In a harbour any moneys, fund, or rate applicable or leviable by the harbour authority for any harbour purposes;

... F119  
...

[<sup>F120</sup>And the local rate or any increase of the local rate may notwithstanding any limitation in any Act be levied for the purposes of this Act.]

#### Textual Amendments

F118 Words repealed by Local Government (Scotland) Act 1947 (c. 43), Sch. 14, London Government Act 1963 (c. 33), Sch. 18 Pt. II and Local Government Act 1972 (c. 70), Sch. 30

F119 Words repealed by Local Government (Scotland) Act 1947 (c. 43), Sch. 14 and Local Government Act 1972 (c. 70), Sch. 30

F120 Words repealed (S.) by Local Government (Scotland) Act 1947 (c. 43), Sch. 14

### *Power of Local Authority to provide Carriages and Magazines*

### 71 Undertaking of carriage by harbour authority and canal company.

Every harbour authority and canal company shall, in addition to any other powers they may have for the like purpose, have power to provide carriages, ships, and boats for the conveyance, loading, or unloading of an explosive within the jurisdiction of such authority or company, and may charge a reasonable sum fixed by a byelaw under this Act for the use of such carriage, ship, or boat.

### 72 Provision of magazines by local authority.

Where any local authority [<sup>F121</sup>other than justices in petty sessions satisfy][<sup>F122</sup>the Health and Safety Executive] that the erection of a magazine by such authority, either within or without their jurisdiction, for the keeping of any explosive, would conduce to the safety of the public within their jurisdiction, and would not be injurious to any harbour or [<sup>F121</sup> . . . <sup>F123</sup> ]district out of their jurisdiction, [<sup>F122</sup>the Health and Safety Executive] may grant a license under this Act for such magazine.

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Where the magazine is without the jurisdiction of the local authority erecting the same, the assent of the local authority within whose jurisdiction the site is situate to such site shall be applied for in manner provided by this Act; and when the magazine is within the said jurisdiction, notice of the application to <sup>F122</sup>the Health and Safety Executive] for the license shall be given in like manner as notice of the intention to apply for the assent of the local authority to a site is required by this Act to be given.

The local authority may, for the purpose of any such license, <sup>F124</sup>acquire any land or right over land, or appropriate any land or right belonging to them, and] acquire or build a magazine, and may maintain and manage such magazine, and may charge for the use by persons of any such magazine such reasonable sums as they may from time to time, with the approval of <sup>F122</sup>the Health and Safety Executive] , fix.

<sup>F124</sup>Such sums shall be applied in aid of the local rate, and the expenses incurred for the purposes of this section may be defrayed out of the local rate]<sup>F125</sup>and the local authority may borrow]<sup>F126</sup>on the security of the local rate]<sup>F125</sup>the amount required for the purpose of acquiring any land or right over land, or acquiring or building a magazine in pursuance of this section.]

<sup>F126</sup>Any such loan shall be made with the approval in the case of a council, of the Treasury, <sup>F121</sup>and in the case of Improvement Commissioners, of the <sup>F127</sup>Secretary of State] , and in the case of a harbour authority, of the <sup>F128</sup>Secretary of State.]

For the purpose of such borrowing the clauses of the <sup>M11</sup>Commissioners Clauses Act 1847, with respect to the mortgages to be executed by the Commissioners, shall be incorporated with this Act, and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the local authority which is borrowing shall be deemed to be the Commissioners

For the purpose of the purchase of any land or right over land for the purpose of this section the <sup>M12</sup>Lands Clauses Consolidation Act 1845, and the Acts amending the same, (except so much as relates to the purchase of land otherwise than by agreement,) shall be incorporated with this section, and in construing those Acts for the purposes of this section the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean the local authority, and land shall be construed to include any right over land.]

Where any offence under this Act is committed in or about any magazine erected in pursuance of this section, such offence may be prosecuted and tried and the penalty and forfeiture therefor recovered either in the county or place in which the magazine is situate, or in any adjoining county or place.

#### Textual Amendments

- F121** Words in s. 72 repealed (E.W.S.) (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII.**
- F122** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**
- F123** Words omitted by virtue of **Local Government Act 1894 (c. 73)**, s. 21(1) and **Local Government Act 1972 (c. 70)**, s. 179(3) and repealed (E.W.S) (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII.**
- F124** Words repealed by (E.W. except London) **Local Government Act 1933 (c. 51)**, **Sch. 11 Pt. IV** and (S.) **Local Government (Scotland) Act 1967 (c. 43)**, **Sch. 14** except so far as relates to harbour authorities and by **London Government Act 1939 (c. 40)**, **Sch. 8** so far as relates to London County Council
- F125** Words repealed (E.W. except London) by **Local Government Act 1933 (c. 51)**, **Sch. 11 Pt. IV** except so far as relates to harbour authorities

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- F126** Words repealed by (E.W. except London) [Local Government Act 1933 \(c. 51\)](#), [Sch. 11 Pt. IV](#) and (S.) [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), [Sch. 14](#) except so far as relates to harbour authorities
- F127** Words substituted by virtue of [Ministry of Health Act 1919 \(c. 21\)](#), s. 3(1)(a), [Sch. 1 para. 1](#) and [S.I. 1968/1699](#), [arts. 2, 5\(4\)\(a\)](#) and repealed (E.W.S.) (5.11.1993) by 1993 c. 50, s. 1(1), [Sch. 1 Pt. VII](#).
- F128** Words substituted by virtue of [Ministry of Transport Act 1919 \(c. 50\)](#), s. 2, [Sch. 1 para. 1](#), S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), [arts. 2, 3, 1946/375 \(Rev. XV, p. 229: 1946, p. 1009\)](#), [art. 2\(1\)\(3\)](#), [S.I. 1953/1204](#) (1953 I, p. 1225), [art. 3\(1\)](#), 1959/1768 (1959 I, p. 1793) [art. 3\(2\)](#) and 1970/1681, [arts. 2\(1\)](#), 6(3)

#### Marginal Citations

- M11** 1847 c. 16.  
**M12** 1845 c. 18.

### General Power of Search

73 ..... **F129**

#### Textual Amendments

- F129** [Ss. 73, 75](#) repealed by [S.I. 1974/1885](#), [reg. 2\(a\)](#) [Sch. 1](#), but by virtue of amendments to that S.I. by [S.I. 1974/2166](#), [reg. 2, s. 73](#) was saved in so far as relating to the powers of a constable and s. 75 was saved in so far as relating to the powers of officers of police

#### 74 Seizure and detention of explosives liable to forfeiture.

Where any of the following officers, namely, any [<sup>F130</sup>inspector appointed by the Health and Safety Executive under section 19 of the <sup>M13</sup>Health and Safety at Work etc. Act 1974], or any constable, or any officer of the local authority, 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 the same until some court of summary jurisdiction has determined whether the same is or is not so liable to be forfeited, and with respect thereto the following provisions shall have effect:

- (1) The officer seizing may either require the occupier of the place in which it was seized (whether a building or not, or a carriage, boat, or ship) 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 appears to him to be urgent and fraught with serious public danger, and he is [<sup>F130</sup>an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974], or is authorised by an order from [<sup>F130</sup>an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974] or a justice of the peace, or from a superintendent or other officer of police of equal or superior rank, 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 others, 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 seizing the same, or of [<sup>F130</sup>an inspector appointed by the Health and Safety Executive under

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section 19 of the <sup>M14</sup>Health and Safety at Work etc. Act 1974], or in 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, shall be liable to a penalty not exceeding fifty pounds, 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 said place:

- (2) The proceedings before a court of summary jurisdiction for determining whether the same is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure; and
- (3) The receptacles containing the same may be seized, detained, and removed in like manner as the contents thereof; and
- (4) The officer seizing the same may use for the purposes of the removal and detention thereof any ship, boat, or carriage in which the same was seized, and any tug, tender, engine, tackle, beasts, and accoutrements belonging to or drawing or provided for drawing such ship, boat, or carriage, and shall pay to the owner a reasonable compensation for such use, to be determined, in case of dispute, by a court of summary jurisdiction, and to be recovered in like manner as penalties under this Act; and
- (5) The same shall, so far as practicable, be kept and conveyed in accordance with this Act, and with all due precaution to prevent accident, 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 use all such due precautions as aforesaid; and
- (6) The officer seizing the same, 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.

#### Textual Amendments

**F130** Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 5](#)

#### Marginal Citations

**M13** 1974 c. 37.

**M14** 1974 c. 37.

#### Textual Amendments

**F131** Ss. 73, 75 repealed (E.W.S.) by [S.I. 1974/1885, reg. 2\(a\)](#) Sch. 1, but by virtue of amendments to that S.I. by [S.I. 1974/2166, reg. 2, s. 73](#) was saved in so far as relating to the powers of a constable and s. 75 was saved in so far as relating to the powers of officers of police; and in so far as saved s. 75 amended (1.4.1998) by [1997 c. 50, s. 134\(1\), Sch. 9 para. 1](#); [S.I. 1998/354, art. 2\(2\)\(ay\)](#) S. 75, so far as it is saved, is amended (1.4.2006) by the Serious Organised Crime and Police Act 2005 [c. 15, Sch. 4, para. 1\(2\)\(a\)\(b\)\(3\)](#); [S.I. 2006/378, art. 4\(1\), Sch. 10](#) Words in s. 75 repealed (N.I.) (5.11.1993) by [1993 c. 50, s. 1\(1\), Sch. 1 Pt. VII](#).

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76 ..... F132

**Textual Amendments**

F132 S. 76 repealed by S.I. 1974/1885, Sch. 1

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

*Supplemental Provisions*

**77 Penalty on and removal of trespassers.**

Any person who enters without permission or otherwise trespasses upon any factory, magazine, or store, or the land immediately adjoining thereto which is occupied by the occupier of such factory, magazine, or store, or on any wharf for which byelaws are made by the occupier thereof under this Act, [F133 shall be guilty of an offence] , and may be forthwith removed from such factory, magazine, store, land, or wharf, by any constable, or by the occupier of such factory, magazine, store, or wharf, or any agent or servant of or other person authorised by such occupier.

Any person other than the occupier of or person employed in or about any factory, magazine, or store who is found committing any act which tends to cause explosion or fire in or about such factory, magazine, or store, [F133 shall be guilty of an offence.]

The occupier of any such factory, magazine, store, or wharf shall post up in some conspicuous place or places a notice or notices warning all persons of their liability to penalties [F134c for an offence] under this section; but the absence of any such notice or notices shall not exempt a person from a penalty [F134f for an offence] under this section.

**Textual Amendments**

F133 Words substituted by S.I. 1974/1885, Sch. 2 para. 19

F134 Words inserted by S.I. 1974/1885, Sch. 2 para. 19

**78 Arrest without warrant of persons committing dangerous offences.**

Any person who is found committing any act [F135 which is an offence] under this Act, and which tends to cause explosion or fire in or about any factory, magazine, store, railway, canal, harbour, or wharf, or any carriage, ship, or boat, may be apprehended without a warrant by [F136 a constable, or] an officer of the local authority, or by the occupier of or the agent or servant of or other person authorised by the occupier of such factory, magazine, store, or wharf, or by any agent or servant of or other person authorised by the railway or canal company or harbour authority, and be removed from the place at which he is arrested, and conveyed as soon as conveniently may be before a court of summary jurisdiction.



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**Textual Amendments**

**F135** Words substituted by [S.I.1974/1885, Sch. 2 para. 20](#)

**F136** Words repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 7 Pt. I](#)

**79** ..... <sup>F137</sup>

**Textual Amendments**

**F137** [S. 79](#) repealed by [S.I. 1974/1885, Sch. 1](#)

**80 Penalty for throwing fireworks in thoroughfare.**

If any person throw, cast, or fire any fireworks in or into any [<sup>F138</sup>highway, street, thoroughfare,]<sup>F138</sup> [<sup>F138</sup>road] or public place, he [<sup>F139</sup>shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale]

**Textual Amendments**

**F138** Word “road”substituted (S.) for words “highway, street thoroughfare,” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 7\(4\)](#)

**F139** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), ss. 41(2), 47(1)(2), 48, [Sch. 4 para. 1](#)

**Modifications etc. (not altering text)**

**C30** [S. 80](#) explained as to meaning of public place (S.) by [Countryside \(Scotland\) Act 1967 \(c. 86\)](#), [s. 27\(6\)](#)

**81** ..... <sup>F140</sup>

**Textual Amendments**

**F140** [S. 81](#) repealed by [S.I. 1974/1885, Sch. 1](#)

**82 †Punishment for defacing notices.**

Every person who, without due authority, pulls down, . . . <sup>F141</sup> any notice, copy of rules, or document, when affixed in pursuance of this Act, or of the special rules, [<sup>F142</sup>shall be guilty of an offence].

**Textual Amendments**

**F141** Words repealed by [Criminal Damage Act 1971 \(c. 48\)](#), [Sch. Pt. II](#)

**F142** Words substituted by [S.I. 1974/1885, Sch. 2 para. 21](#)

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**Modifications etc. (not altering text)**

**C31** A dagger appended to a marginal note means that it is no longer accurate

**83 Provisions as to Orders in Council and orders of Secretary of State.**

Her Majesty may from time to time make Orders in Council for doing anything which is in this Act expressed to be authorised, directed, regulated, prescribed, or done by Order in Council.

[<sup>F143</sup>Every Order in Council or order of the Secretary of State, which purports to be made in pursuance of this Act shall be presumed to have been duly made and to be within the powers of this Act, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.]

Every Order in Council made in pursuance of this Act [<sup>F143</sup>shall take effect as if it were enacted in this Act, and shall be published in the London Gazette, and] shall be laid before both Houses of Parliament [<sup>F143</sup>within one month after it is made, if Parliament be then sitting, or if not, within one month after the commencement of the then next session of Parliament.]

Her Majesty may by Order in Council, and a Secretary of State may by order, from time to time revoke, add to, or alter any previous Order in Council or orders of the Secretary of State, as the case may be, under this Act.

[<sup>F144</sup>The provisions of section 50 of the <sup>M15</sup>Health and Safety at Work etc. Act 1974 shall apply to any power of the Secretary of State to recommend the making of an Order in Council, to make orders or rules or to make or require the making of byelaws as they apply to a power to make regulations.]

**Textual Amendments**

**F143** Words in S. 83, as it applies to Great Britain, repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. XII](#)

**F144** Words added by [S.I. 1974/1885](#), [Sch. 2 para. 22](#)

**Marginal Citations**

**M15** [1974 c. 37](#).

**84 Publication of byelaws, notices, &c.**

All byelaws, notices, and documents directed by this Act to be published or advertised shall, save as otherwise provided by this Act, be published in the place which such notices and documents affect, by advertisement in some newspapers circulating generally in such place, or by placards or handbills, or in such manner as the Secretary of State may from time to time direct as being in his opinion sufficient for giving information thereof to all persons interested.

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**Textual Amendments**

F145 S. 85 repealed by S.I. 1974/1885, Sch. 1

**86 Construction of enactments referring to powers of searching for gunpowder.**

Where any enactment refers to any power of searching for gunpowder, or to any provisions of an <sup>M16</sup>Act of the twelfth year of King George the Third, chapter sixty-one, or of any Act repealed by this Act relative to the search for gunpowder, such enactment shall be deemed to refer to the provisions of this Act with respect to the search for and seizure, detention, and removal of an explosive by [<sup>F146</sup>an inspector appointed by the Health and Safety Executive under section 19 of the <sup>M17</sup>Health and Safety at Work etc. Act 1974].

**Textual Amendments**

F146 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 5

**Marginal Citations**

M16 1772 c. 61.

M17 1974 c. 37.

*Legal Proceedings*

**87, 88.** ..... <sup>F147</sup>

**Textual Amendments**

F147 Ss. 87, 88 repealed by S.I. 1974.1885, Sch. 1

<sup>F148</sup>**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.

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**Textual Amendments**

**F148** 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.

**<sup>F149</sup>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.

Provided that the penalty imposed by a court of summary jurisdiction shall not exceed one hundred pounds, exclusive of costs, and exclusive of any forfeiture or penalty in lieu of forfeiture, and the term of imprisonment imposed by any such court shall not exceed one month.

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**

**F149** S. 91 repealed except for purposes of ss. 30, 32 of this Act by [S.I. 1974/1885, Sch. 1](#)

**92** .....

**F150**

**Textual Amendments**

**F150** S. 68 repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#)

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F151<sup>93</sup> .....

**Textual Amendments**  
F151 S. 93 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. VII.

F152<sup>94</sup> .....

**Textual Amendments**  
F152 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.**

..... F153

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

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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

**F153** Words repealed by S.I. 1974/1885, Sch. 1

### *Exemptions and Savings*

#### **97 Exemption of Government factories, &c. from the Act.**

This Act shall not apply—

- (1) To any factory, magazine, store, premises, wharf, place, or explosive under the control of the Secretary of State, . . . <sup>F154</sup>, or other department of the Government or otherwise held for the service of the Crown, or to the manufacture, keeping, or importation of such explosive; or
- (2) To any of Her Majesty's ships, boats, or carriages; or
- (3) To the keeping or making up, or adapting for use of any explosive issued . . . <sup>F155</sup> by [<sup>F156</sup>or for the use of any naval or marine reserve] , so far as such explosive is kept, made up, and adapted for use in accordance with the regulations of the Secretary of State. . . . <sup>F155</sup>; or
- (4) To any storehouse appointed for receiving any such explosive as last above mentioned . . . <sup>F155</sup>, if such storehouse is approved by the Secretary of State . . . <sup>F154</sup>, as a fit place for the storing of such explosive, and is managed in accordance with the regulations of a Secretary of State . . . <sup>F154</sup> for the management of such storehouses, or for the management of the like storehouses appointed for the use of Her Majesty's army or navy; or
- [<sup>F157</sup>(5) To the conveyance of any explosive under the control of a Secretary of State, . . . <sup>F154</sup>, or other department of the Government or to the conveyance of any explosive otherwise held for the service of the Crown when the same is being conveyed in accordance with the regulations of a Secretary of State of . . . <sup>F154</sup> other department of the Government:

Provided that every person who enters without permission or otherwise trespasses upon any factory, magazine, or storehouse above in this section mentioned or the land immediately adjoining thereto in the occupation of the Crown or of a Secretary of State or . . . <sup>F154</sup> other department of the Government, or if it adjoin such a storehouse in the occupation of the officer or person in whom such storehouse is vested, and any person found committing any act tending to cause explosion or fire in or about such factory, magazine, or storehouse, shall be liable to the like penalty, and may be removed and arrested in like manner as if this section had not been enacted and this Act applied to such factory, magazine, or storehouse, as above in this section mentioned.]

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#### Textual Amendments

- F154** Words repealed by [S.I. 1964/488, Sch. 1 Pt. I](#)  
**F155** Words repealed by [Statute Law Revision Act 1966 \(c. 5\)](#)  
**F156** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)  
**F157** S. 97(5) repealed (E.W.S.) by [S.I. 1989/615, reg. 19\(1\)](#)

#### Modifications etc. (not altering text)

- C32** S. 97 extended by [S.I. 1965/1536, Sch. 3](#)  
**C33** Reference to ships to be construed as including reference to aircraft: [S.R. & O. 1918/548 \(Rev. I, p. 896: 1918 I, p. 50\)](#)  
**C34** References to departments of Government except second reference in s. 97(5) to be construed as including references to United Kingdom Atomic Energy Authority: [Atomic Energy Authority Act 1954 \(c. 32\), Sch. 3](#)  
**C35** S. 97(5) extended as to explosives certified as conveyed in connection with execution of contract with Government department or with service authorities of visiting force or with a designated headquarters or defence organisation by [Emergency Laws \(Miscellaneous Provisions\) Act 1947 \(11 & 12 Geo. 6 c. 10\), Sch. 2 para. 4](#)

### 98 Saving for rocket and fog stations.

This Act shall not apply—

- (1) To the keeping of any rockets for use in any apparatus for saving life, kept under the control of the [<sup>F158</sup>Secretary of State] or the Board of Trade; or
- (2) To the keeping of any explosive kept for the purpose of signalling at or near a station on the sea coast, under the control of any general lighthouse authority, as defined by the [<sup>F159</sup>M<sup>18</sup>Merchant Shipping Act 1894].

#### Textual Amendments

- F158** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)  
**F159** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

#### Modifications etc. (not altering text)

- C36** Functions of Board of Trade under s. 98 now exercisable concurrently by Secretary of State: [S.I. 1970/1537, art. 2\(1\)\(a\)](#)

#### Marginal Citations

- M18** [1894 c. 60 s. 634.](#)

### 99 ..... F160

#### Textual Amendments

- F160** S. 99 repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\), Sch. 1 Pt. XI](#)



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## 100 Saving for master of ship and carrier in case of emergency.

Nothing in this Act shall render liable to any penalty or forfeiture the owner or master of any ship or boat, or any carrier or warehouseman, or the person having charge of any carriage, for any act done in breach of this Act, if he prove that by reason of stress of weather, inevitable accident, or other emergency, the doing of such act was, under the circumstances, necessary and proper.

## 101 †Saving for rockets, gunpowder, &c. on board ship in compliance with 17 & 18 Vict. c. 104.

Where any gunpowder, rockets, or other explosive are on board any ship in pursuance of the provisions of the [<sup>F161M19</sup>Merchant Shipping Act 1894]. and the Acts amending the same, or any order or regulation made under any of those Acts, nothing in this Act shall apply to such gunpowder, rockets, or explosive, except that the conveyance and keeping thereof on board the ship or elsewhere while the ship is in harbour shall be subject to the byelaws under this Act, and byelaws under this Act may be made for regulating such conveyance and keeping.

### Textual Amendments

**F161** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

### Modifications etc. (not altering text)

**C37** A dagger appended to a marginal note means that it is no longer accurate

### Marginal Citations

**M19** [1894 c. 60.](#)

## 102 Saving clause as to liability.

This Act shall not, save as is herein expressly provided, exempt any person from any action or suit in respect of any nuisance, tort, or otherwise, which might but for the provisions of this Act, have been brought against him.

This Act shall not exempt any person from any indictment or other proceeding for a nuisance, or for an offence which is indictable at common law, or by any Act of Parliament other than this Act, so that no person be punished twice for the same offence.

When proceedings are taken before any court against any person in respect of any offence under this Act, which is also an offence indictable at common law or by some Act of Parliament other than this Act, the court may direct that, instead of such proceedings being continued, proceedings shall be taken for indicting such person at common law or under some Act of Parliament other than this Act.

A continuing certificate granted under this Act shall not make lawful any factory, magazine, or store, or any part thereof, which immediately before the passing of this Act was unlawful.

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### 103 Powers of Act cumulative, with power to make provisional order for repealing local Acts.

All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local authority by Act of Parliament, but the Secretary of State may, on the application of [<sup>F162</sup>the Health and Safety Commission or of] any local authority, or of any council of a borough, or any [<sup>F163</sup>district council], or on the application of any persons making, keeping, importing, exporting, or selling any explosive within the jurisdiction of any local authority, council, or [<sup>F163</sup>district council], after notice to [<sup>F162</sup>the said Commission or to] such authority, make an order for repealing, altering or amending all or any of the provisions of any Act of Parliament, charter, or custom respecting the manufacture, keeping, conveyance, importation, exportation, or sale of an explosive, or the powers of such council or authority for regulating the same, or otherwise in relation to an explosive.

Notice of the draft of every such order shall be advertised not less than one month before the order is made, and the Secretary of State shall consider all objections to such draft order sent to him in writing during the said month, and shall, if it seem to him necessary, direct a local inquiry into the validity of any such objections.

Any such order shall be of no force unless confirmed by Parliament, but when so confirmed shall have effect, with such modifications or alterations as may be therein made by Parliament.

If while a Bill confirming any such order is pending in either House of Parliament, a petition is presented against such order, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose the same as in the case of a Bill for a private Act.

An order under this section may also be made for revoking or altering an order under this section previously made and confirmed by Parliament.

#### Textual Amendments

**F162** Words inserted by [S.I. 1974/1885, Sch. 2 para. 23](#)

**F163** Words substituted by virtue of [Local Government Act 1894 \(c. 73\), s. 21\(1\)](#) and [Local Government Act 1972 \(c. 70\), s. 179\(3\)](#)

#### Definitions

### 104 Extension of definition of explosive to other explosive substances.

Her Majesty may, by Order in Council, declare that any substance which appears to Her Majesty to be specially dangerous to life or property by reason either 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 Act and the provisions of this Act (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 Act.

*Status: Point in time view as at 01/12/1993.*

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**105 Persons carrying on certain processes to be deemed manufacturers.**

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 Act as if he manufactured an explosive, and the expression “manufacture” shall in this Act be construed accordingly.

**106 Definition and classification of explosives by Order in Council.**

It shall be lawful for Her Majesty from time to time by Order in Council, to define, for the purposes of this Act, the composition, quality, and character of any explosive, and to classify explosives.

Where the composition, quality, or character of any explosive has been defined by an Order in Council, 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 Act, to be the explosive so defined.

**107** ..... **F164**

**Textual Amendments**

**F164** S. 107 repealed by **Police Act 1964 (c. 48)**, **Sch. 10 Pt. I** and **Police (Scotland) Act 1967 (c. 77)**, **Sch. 5 Pts. I, II**

**108 General definitions.**

In this Act, unless the context otherwise requires—

The expression “this Act” includes any license, certificate, byelaw, regulation, rule, and order granted or made in pursuance of this Act:

The expression “existing” means existing at the passing of this Act:

The expression “person” includes a body corporate:

The expression “occupier” includes any number of persons and a body corporate; and in the case of any manufacture or trade, includes any person carrying on such manufacture or trade:

The expression “master” includes every person (except a pilot) having command or charge of a ship, and in reference to any boat belonging to a ship, means the master of the ship; and when used in reference to any other boat, includes every person having command or charge of such boat:

The expression “magazine” includes any ship or other vessel used for the purpose of keeping any explosive:

The expression “factory magazine” means a building for keeping the finished explosive made in the factory, and includes, if such explosive is not gunpowder, any building for keeping the partly manufactured explosive or the ingredients of such explosive which is mentioned in that behalf in the license:

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The expression “store” means an existing gunpowder store as defined by this Act, or a place for keeping an explosive licensed by a license granted by a local authority under this Act:

F165

The expression “warehouseman” includes all persons owning or managing any warehouse, store, wharf, or other premises in which goods are deposited:

The expression “carrier” includes all persons carrying goods or passengers for hire by land or water:

The expression “harbour authority” means any person or body of persons, corporate or unincorporate, being or claiming to be proprietor or proprietors of or intrusted with the duty or invested with the power of improving, managing, maintaining, or regulating any harbour properly so called, whether natural or artificial, and any port, haven, and estuary, or intrusted with the duty of conserving, maintaining, or improving the navigation of any tidal water, and any such harbour, port, haven, estuary, tidal water, and any wharf, dock, pier, jetty, and work, and other area, whether land or water, over which the harbour authority as above defined have control or exercise powers, are in the other portions of this Act included in the expression “harbour”:

The expression “canal company” means any person or body of persons, corporate or unincorporate, being owner or lessee or owners or lessees of, or working, or entitled to charge tolls for the use of any canal in the United Kingdom, constructed or carried on under the powers of any Act of Parliament, or intrusted with the duty of conserving, maintaining, or improving the navigation of any inland water, and every such canal and inland water under the control of a canal company as above defined, and any wharf, dock, pier, jetty, and work in or at which barges do or can ship or unship goods or passengers, and other area, whether land or water, which belong to or are under the control of such canal company, are in the other portions of this Act included in the expression “canal”:

The expression “tidal water” means any part of the sea or of a river within the ebb and flow of the tides at ordinary spring tides:

The expression “inland water” means any canal, river, navigation, lake, or water which is not tidal water:

The expression “railway company” means any person or body of persons, corporate or unincorporate, being the owner or lessee or owners or lessees of or working any railway worked by steam or otherwise than by animal power in the United Kingdom, constructed or carried on under the powers of any Act of Parliament and used for public traffic, and every building, station, wharf, dock, and place which belong to or are under the control of a railway company, are in the other portions of this Act included in the expression “railway”:

The expression “wharf” includes any quay, landing-place, siding, or other place at which goods are landed, loaded, or unloaded:

The expression “carriage” includes any carriage, waggon, cart, truck, vehicle, or other means of conveying goods or passengers by land, in whatever manner the same may be propelled:

The expression “ship” includes every description of vessel used in sea navigation, whether propelled by oars or otherwise:

The expression “boat” means every vessel not a ship as above defined which is used in navigation in any inland water or any harbour, whether propelled by oars or otherwise:

*Status: Point in time view as at 01/12/1993.*

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The expression “prescribed” means prescribed by Order in Council:

F166

.....  
...

The expression “safety cartridges” 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 other cartridges:

The expression “<sup>M20</sup>Gunpowder Act 1860,” means the Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter one hundred and thirty-nine, intituled “An Act to amend the law concerning the making, keeping, and carriage of gunpowder and composition of an explosive nature, and concerning the manufacture, sale, and use of fireworks,” and the Acts amending the same:

F165

[<sup>F167</sup>The expression “road” has the same meaning as in the Roads (Scotland) Act 1984.]

**Textual Amendments**

**F165** Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

**F166** Words repealed (E.W.) by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

Words from “the expression” county” to “such district” repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt.VII](#).

**F167** Words added (S) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 7\(5\)](#)

**Modifications etc. (not altering text)**

**C38** Definition of “magazine” extended by [Hovercraft Act 1968 \(c. 59\)](#), [Sch. para. 2](#)

**C39** Reference to urban sanitary district and urban sanitary authority to be construed as reference to district and district council: [Local Government Act 1972 \(c. 70\)](#), [s. 179\(3\)](#)

**Marginal Citations**

**M20** [1860 c. 139](#).

*Application of Act to Scotland*

This Act shall apply to Scotland, with the following modifications; that is to say,

**109 Definitions.**

In this Act with respect to Scotland—

(1) ..... **F168**

(2) <sup>F169</sup> ...

(3) <sup>F169</sup> ...

(4) <sup>F169</sup> ...

(5) <sup>F169</sup> ...

(6) <sup>F169</sup> ...

*Status: Point in time view as at 01/12/1993.*

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(7) ..... F170

(8) F169 . . .

(9) F169 . . .

(10) The expression “the court of summary jurisdiction” means the [F171sheriff principal of the sheriffdom or any one of his sheriffs]:

[F172(11) This Act shall be read and construed as if for the expression “The M21Lands Clauses Consolidation Act 1845,” wherever it occurs therein, the expression “The M22Lands Clauses Consolidation (Scotland) Act 1845,” were substituted.]

**Textual Amendments**

- F168 S. 109(1) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F169 S. 109(2)-(6)(8)(9) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), **Sch. 1 Pt. VII.**
- F170 S. 109(7) repealed by [Police \(Scotland\) Act 1967 \(c. 77\)](#), **Sch. 5 Pt. I**
- F171 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4, **Sch. 1 para. 1**
- F172 S. 109(11) repealed except so far as relates to harbour authorities by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), **Sch. 14**

**Marginal Citations**

- M21 1845 c. 18.
- M22 1845 c. 19.

**110 Local authority.**

In Scotland, the local authority for the purposes of this Act shall be as follows:

- [F173(1) A regional or islands council; and]
- (2) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority . . . F174, the harbour authority, to the exclusion of any other local authority; and
- (3) ..... F175

**Textual Amendments**

- F173 S. 110 para. 1 substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. II para. 10**
- F174 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F175 S. 110 para. 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

**111 Expenses of local authority.**

In Scotland, the local rate for defraying the expenses of the local authorities under this Act shall be—

- [F176(a) The regional or general rate, as the case may be; and]
- (b) In any harbour as aforesaid any moneys, fund, or rate applicable or leviable by the harbour authority for any harbour purpose; and
- (c) ..... F177

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[<sup>F178</sup>The rates or assessments in this sub-section mentioned, or any increase of any such rate or assessment, may, notwithstanding any limitation in any Act, be levied for the purposes of this Act.]

**Textual Amendments**

- F176** S. 111 (a) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. II para. 11**
- F177** S. 111(c) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F178** Words repealed except so far as relates to harbour authorities by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), **Sch. 14**

**112** ..... <sup>F179</sup>

**Textual Amendments**

- F179** S. 112 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

**113 Local authority to have certain powers to take land otherwise than by agreement.**

In Scotland, every local authority under this Act [<sup>F180</sup>may be authorised by the Secretary of State to purchase land compulsorily] for the purpose of erecting a gunpowder magazine thereon . . . <sup>F181</sup>

**Textual Amendments**

- F180** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), s. 6(3), **Sch. 4**
- F181** Words repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\)](#), **Sch. 4**

**114 Provision for making and enforcing byelaws, &c.**

In Scotland, the following provisions shall have effect:

- (a) Where an obligation is laid by this Act on any harbour authority, company, or local authority to make or enforce any byelaws or to grant any license or to do anything, the Court of Session may, upon summary application by any corporation, harbour authority, or local authority, or party interested, compel such harbour authority, company, or local authority to discharge such obligation:
- <sup>F182</sup>(b) .....
- (c) The proceedings may be on indictment in the Court of Justiciary . . . <sup>F183</sup> or in the sheriff court, or may be taken summarily in the sheriff court under the provisions of [<sup>F184</sup>Part II of the Criminal Procedure (Scotland) Act 1975], as the Lord Advocate shall direct:
- <sup>F182</sup>(d) .....
- (e) In Scotland, all penalties imposed in pursuance of this Act shall be paid to the clerk of the court imposing them, and shall by him be accounted for and paid to [<sup>F185</sup>the Secretary of State], and be carried to the Consolidated Fund; and the proceeds of any sales of explosives or of the ingredients of explosives, or



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of the receptacles of explosives or their ingredients, or of any ship, boat, or carriage, forfeited and directed to be sold, or directed to be sold and disposed of as if the same were forfeited under this Act, shall be paid, accounted for, and applied in like manner as penalties under this Act:

<sup>F182</sup>(f) .....

**Textual Amendments**

- F182** S. 114(b)(d)(f) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.
- F183** Words repealed by Statute Law Revision (No. 2) Act 1893 (c. 54)
- F184** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)
- F185** Words substituted by S.I. 1974/1274, art. 3(4), **Sch.**

<sup>F186</sup>**115 †Board of Trade empowered to make byelaws for the lower estuary of the Clyde: Secretary of State to define the authority for enforcing such byelaws.**

Whereas upon that part of the estuary of the Clyde which lies below the jurisdiction of the Trustees of the Clyde Navigation (and which part is in this section referred to as the lower estuary of the Clyde) doubts have arisen as to the limits of the several harbour authorities on that estuary, be it enacted, the [<sup>F187</sup>Secretary of State] may, if [<sup>F187</sup>he thinks] it expedient, make byelaws under this Act for the lower estuary of the Clyde as if it were a harbour and [<sup>F187</sup>he] were the harbour authority, and such byelaws shall be deemed to have been made by a harbour authority with the sanction of the [<sup>F187</sup>Secretary of State] ; and [<sup>F187</sup>he] may by such byelaws define the area within which such byelaws are to be observed, and the Secretary of State shall have power to define the authority or authorities and officers by whom such byelaws are to be enforced and carried into effect within such area; and such authority or authorities and officers shall, for the purposes of this Act, other than making byelaws or assenting to a site for a new factory or magazine, have the same power within the said area as a harbour authority and an officer of a harbour authority have respectively under this Act in a harbour.]

**Textual Amendments**

- F186** S. 115 repealed (E.W.S.) by S.I. 1987/37 reg. 47(1)(a)
- F187** Words substituted by virtue of Ministry of Transport Act 1919 (c. 50), s. 2, **Sch. 1 para. 1**, S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), arts. 2, 3, 1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1)(3), S.I. 1953/1204 (1953 I, p. 1225), art. 3(1), 1959/1768 (1959 I, p. 1793) art. 3(2) and 1970/1681, arts. 2(1), 6(3)

**Modifications etc. (not altering text)**

- C40** A dagger appended to a marginal note means that it is no longer accurate

*Application of Act to Ireland*

**Modifications etc. (not altering text)**

- C41** References to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

This Act shall apply to Ireland, with the following modifications; that is to say,

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## **116 Definition of local authority.**

The local authority for the purposes of this Act shall be—

- (1) In the city of Dublin, the Lord Mayor, aldermen, and burgesses acting by the town council;
- (2) In any urban sanitary district in which the powers, jurisdictions, and authorities of the grand jury of the county in which such district is situate are vested and exercisable by the urban sanitary authority, except as hereafter in this section mentioned, the urban sanitary authority;
- (3) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority before in this section mentioned, the harbour authority, to the exclusion of any other local authority;
- (4) In any place in which there is no local authority as before in this section defined, the justices in petty sessions assembled.

The expressions “urban sanitary authority” and “urban sanitary district” have the same meanings respectively as in the <sup>M23</sup>Public Health (Ireland) Act 1874.

### **Marginal Citations**

**M23** 1874 c. 93.

## **117 Power of certain local bodies to become a local authority.**

The urban sanitary authority of any district in Ireland which is not constituted a local authority by this Act may, by order of a Secretary of State made upon the application of such authority and published in the Dublin Gazette, be declared to be a local authority for the purposes of this Act, and thereupon shall become a local authority accordingly for such part of their district as is not included in any harbour to the exclusion of the justices in petty sessions.

## **118 Expenses of local authority.**

All expenses incurred by any local authority in carrying into effect the execution of this Act in Ireland including the salary and expenses of any officer directed by them to act under this Act, shall be paid out of the local rate. The local rate shall for the purposes of this Act mean as follows; that is to say,

In the city of Dublin, the borough fund or borough rate;

In urban sanitary districts where the urban sanitary authority are the local authority, any fund, moneys, or rate applicable or leviable by such authority for any purposes of improvement within their district;

In harbours, any moneys, fund, or rate applicable or leviable by the harbour authority for any harbour purposes; and

In any places where the justices in petty sessions are the local authority, the poor rates;

And the local rate or any increase of the local rate may, notwithstanding any limitation in any Act, be levied for the purposes of this Act.

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**119 Form of registers of store licenses and registered premises, and amount of fees, to be approved by Secretary of State.**

The register of store licenses and of registered premises to be kept by the local authorities in Ireland shall be kept in such form and manner, and the fees for entries to be made therein shall (subject to the limits as to fees prescribed by this Act) be such as the Secretary of State shall from time to time approve.

<sup>F188</sup>**120** .....

**Textual Amendments**  
**F188** S. 120 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.

<sup>F189</sup>**121** .....

**Textual Amendments**  
**F189** S. 121 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.

**122** ..... <sup>F190</sup>

**Textual Amendments**  
**F190** S. 122 repealed by **Statute Law Revision (No. 2) Act 1893 (c. 54)**

**Status:**

Point in time view as at 01/12/1993.

**Changes to legislation:**

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