



# Explosives Act 1875

1875 CHAPTER 17 38 and 39 Vict

## 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, [<sup>F1</sup>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, [<sup>F1</sup>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 [<sup>F2</sup>for an offence] under this section; but the absence of any such notice or notices shall not exempt a person from a penalty [<sup>F2</sup>for an offence] under this section.

#### **Textual Amendments**

- F1** Words substituted by [S.I. 1974/1885, Sch. 2 para. 19](#)
- F2** Words inserted by [S.I. 1974/1885, Sch. 2 para. 19](#)

Status: Point in time view as at 05/11/1993.

Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)

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

Any person who is found committing any act [<sup>F3</sup>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 [<sup>F4</sup>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.

**Textual Amendments**

- F3** Words substituted by [S.I.1974/1885, Sch. 2 para. 20](#)
- F4** Words repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\), s. 119, Sch. 7 Pt. I](#)

**79** ..... <sup>F5</sup>

**Textual Amendments**

- F5** [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>F6</sup>highway, street, thoroughfare,][<sup>F6</sup>road] or public place, he [<sup>F7</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**

- F6** 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\(4\)](#)
- F7** 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)**

- C1** [S. 80](#) explained as to meaning of public place (S.) by [Countryside \(Scotland\) Act 1967 \(c. 86\), s. 27\(6\)](#)

**81** ..... <sup>F8</sup>

**Textual Amendments**

- F8** [S. 81](#) repealed by [S.I. 1974/1885, Sch. 1](#)

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

## 82 †Punishment for defacing notices.

Every person who, without due authority, pulls down, . . . <sup>F9</sup> any notice, copy of rules, or document, when affixed in pursuance of this Act, or of the special rules, [<sup>F10</sup> shall be guilty of an offence].

### Textual Amendments

**F9** Words repealed by [Criminal Damage Act 1971 \(c. 48\)](#), [Sch. Pt. II](#)

**F10** Words substituted by [S.I. 1974/1885](#), [Sch. 2 para. 21](#)

### Modifications etc. (not altering text)

**C2** 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>F11</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>F11</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>F11</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>F12</sup>The provisions of section 50 of the <sup>M1</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

**F11** 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](#)

**F12** Words added by [S.I. 1974/1885](#), [Sch. 2 para. 22](#)

### Marginal Citations

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

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

**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.

**85** ..... <sup>F13</sup>

**Textual Amendments**  
**F13** 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>M2</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>F14</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].

**Textual Amendments**  
**F14** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 5

**Marginal Citations**  
**M2** 1772 c. 61.  
**M3** 1974 c. 37.

*Legal Proceedings*

**87, 88.** ..... <sup>F15</sup>

**Textual Amendments**  
**F15** Ss. 87, 88 repealed by S.I. 1974.1885, Sch. 1

<sup>F16</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

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

penalty not exceeding such sum as appears to the court to be the value of the explosive so liable to be forfeited.

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

#### Textual Amendments

**F16** 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>F17</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.

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

**Textual Amendments**  
F17 S. 91 repealed except for purposes of ss. 30, 32 of this Act by S.I. 1974/1885, **Sch. 1**

92 ..... F18

**Textual Amendments**  
F18 S. 68 repealed by Local Government Act 1972 (c. 70), **Sch. 30**

F19 93 .....

**Textual Amendments**  
F19 S. 93 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. VII.**

F20 94 .....

**Textual Amendments**  
F20 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.**

..... F21

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

*Status:* Point in time view as at 05/11/1993.

*Changes to legislation:* There are currently no known outstanding effects for the Explosives Act 1875, Part IV.  
—Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)

removing, detaining, keeping, conveying, selling, destroying, or otherwise disposing of the same.

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

#### Textual Amendments

**F21** 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>F22</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>F23</sup> by [<sup>F24</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>F23</sup>; or
- (4) To any storehouse appointed for receiving any such explosive as last above mentioned . . . <sup>F23</sup>, if such storehouse is approved by the Secretary of State . . . <sup>F22</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>F22</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

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

[<sup>F25</sup>(5) To the conveyance of any explosive under the control of a Secretary of State, . . . <sup>F22</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>F22</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>F22</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.]

#### Textual Amendments

- F22** Words repealed by [S.I. 1964/488, Sch. 1 Pt. I](#)  
**F23** Words repealed by [Statute Law Revision Act 1966 \(c. 5\)](#)  
**F24** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)  
**F25** S. 97(5) repealed (E.W.S.) by [S.I. 1989/615, reg. 19\(1\)](#)

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

- C3** S. 97 extended by [S.I. 1965/1536, Sch. 3](#)  
**C4** Reference to ships to be construed as including reference to aircraft: [S.R. & O. 1918/548 \(Rev. I, p. 896: 1918 I, p. 50\)](#)  
**C5** 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](#)  
**C6** 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>F26</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>F27M4</sup>Merchant Shipping Act 1894].

#### Textual Amendments

- F26** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)  
**F27** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)



*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

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

**C7** 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**

**M4** [1894 c. 60](#) s. 634.

**99** ..... **F28**

**Textual Amendments**

**F28** [S. 99](#) repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. XI](#)

**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>F29M5</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**

**F29** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), [s. 38\(1\)](#)

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

**C8** A dagger appended to a marginal note means that it is no longer accurate

**Marginal Citations**

**M5** [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.

*Status: Point in time view as at 05/11/1993.**Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

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.

### **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>F30</sup>the Health and Safety Commission or of] any local authority, or of any council of a borough, or any [<sup>F31</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>F31</sup>district council], after notice to [<sup>F30</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**

**F30** Words inserted by [S.I. 1974/1885, Sch. 2 para. 23](#)

**F31** Words substituted by virtue of [Local Government Act 1894 \(c. 73\), s. 21\(1\)](#) and [Local Government Act 1972 \(c. 70\), s. 179\(3\)](#)

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

## 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.

### 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 ..... F32

#### Textual Amendments

**F32** 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:

*Status: Point in time view as at 05/11/1993.*

**Changes to legislation:** *There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

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:

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:

F33

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”:

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

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:

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

.....<sup>F34</sup>  
.....

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>M6</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:

.....<sup>F33</sup>

[<sup>F35</sup>The expression “road” has the same meaning as in the Roads (Scotland) Act 1984.]

#### Textual Amendments

**F33** Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)

**F34** 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](#).

**F35** 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)

**C9** Definition of “magazine” extended by [Hovercraft Act 1968 \(c. 59\)](#), [Sch. para. 2](#)

**C10** 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

**M6** [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—

*Status: Point in time view as at 05/11/1993.*

**Changes to legislation:** There are currently no known outstanding effects for the Explosives Act 1875, Part IV.  
—Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)

- (1) ..... F36
- (2) <sup>F37</sup> . . .
- (3) <sup>F37</sup> . . .
- (4) <sup>F37</sup> . . .
- (5) <sup>F37</sup> . . .
- (6) <sup>F37</sup> . . .
- (7) ..... F38
- (8) <sup>F37</sup> . . .
- (9) <sup>F37</sup> . . .
- (10) The expression “the court of summary jurisdiction” means the [<sup>F39</sup>sheriff principal of the sheriffdom or any one of his sheriffs]:
- [<sup>F40</sup>(11) This Act shall be read and construed as if for the expression “The <sup>M7</sup>Lands Clauses Consolidation Act 1845,” wherever it occurs therein, the expression “The <sup>M8</sup>Lands Clauses Consolidation (Scotland) Act 1845,” were substituted.]

#### Textual Amendments

- F36** S. 109(1) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F37** S. 109(2)-(6)(8)(9) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), **Sch. 1 Pt. VII.**
- F38** S. 109(7) repealed by [Police \(Scotland\) Act 1967 \(c. 77\)](#), **Sch. 5 Pt. I**
- F39** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4, **Sch. 1 para. 1**
- F40** S. 109(11) repealed except so far as relates to harbour authorities by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), **Sch. 14**

#### Marginal Citations

- M7** 1845 c. 18.
- M8** 1845 c. 19.

## 110 Local authority.

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

- [<sup>F41</sup>(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 . . . <sup>F42</sup>, the harbour authority, to the exclusion of any other local authority; and
- (3) ..... <sup>F43</sup>

#### Textual Amendments

- F41** S. 110 para. 1 substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. II para. 10**
- F42** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F43** S. 110 para. 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

## 111 Expenses of local authority.

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

- [<sup>F44</sup>(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) . . . . .<sup>F45</sup>

[<sup>F46</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

- F44** S. 111 (a) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. II para. 11](#)
- F45** S. 111(c) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F46** Words repealed except so far as relates to harbour authorities by [Local Government \(Scotland\) Act 1947 \(c. 43\), Sch. 14](#)

## 112 . . . . .<sup>F47</sup>

### Textual Amendments

- F47** 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>F48</sup>may be authorised by the Secretary of State to purchase land compulsorily] for the purpose of erecting a gunpowder magazine thereon . . .<sup>F49</sup>

### Textual Amendments

- F48** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), s. 6\(3\), Sch. 4](#)
- F49** 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>F50</sup>(b) . . . . .

*Status: Point in time view as at 05/11/1993.*

**Changes to legislation:** There are currently no known outstanding effects for the Explosives Act 1875, Part IV.  
—Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)

- (c) The proceedings may be on indictment in the Court of Justiciary . . . <sup>F51</sup> or in the sheriff court, or may be taken summarily in the sheriff court under the provisions of [<sup>F52</sup>Part II of the Criminal Procedure (Scotland) Act 1975], as the Lord Advocate shall direct:
- <sup>F50</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>F53</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 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>F50</sup>(f) . . . . .

#### Textual Amendments

- F50** S. 114(b)(d)(f) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.
- F51** Words repealed by [Statute Law Revision \(No. 2\) Act 1893 \(c. 54\)](#)
- F52** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)
- F53** Words substituted by [S.I. 1974/1274, art. 3\(4\), Sch.](#)

#### <sup>F54</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>F55</sup>Secretary of State] may, if [<sup>F55</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>F55</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>F55</sup>Secretary of State] ; and [<sup>F55</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

- F54** [S. 115](#) repealed (E.W.S.) by [S.I. 1987/37 reg. 47\(1\)\(a\)](#)
- F55** 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)

- C11** A dagger appended to a marginal note means that it is no longer accurate



*Status: Point in time view as at 05/11/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

### *Application of Act to Ireland*

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

**C12** 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,

#### **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 exerciseable 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>M9</sup>Public Health (Ireland) Act 1874.

#### **Marginal Citations**

**M9** 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;

*Status: Point in time view as at 05/11/1993.*

**Changes to legislation:** *There are currently no known outstanding effects for the Explosives Act 1875, Part IV. —Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions. (See end of Document for details)*

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.

**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>F56</sup> **120** .....

**Textual Amendments**  
**F56** S. 120 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII.**

<sup>F57</sup> **121** .....

**Textual Amendments**  
**F57** S. 121 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII.**

**122** ..... <sup>F58</sup>

**Textual Amendments**  
**F58** S. 122 repealed by **Statute Law Revision (No. 2) Act 1893 (c. 54)**

**Status:**

Point in time view as at 05/11/1993.

**Changes to legislation:**

There are currently no known outstanding effects for the Explosives Act 1875, Part IV.—  
Supplemental Provisions, Legal Proceedings, Exemptions, and Definitions.