



Explosives Act 1875

1875 CHAPTER 17

PART IV

SUPPLEMENTAL PROVISIONS, LEGAL PROCEEDINGS, EXEMPTIONS, AND DEFINITIONS

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 a Secretary of State, the Commissioners of the Admiralty, 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 the use of any explosive issued by or by the authority of a Secretary of State for the use of any volunteer corps or administrative regiment, or by or by the authority of the Commissioners of the Admiralty for the use of any force under the control of those commissioners, so far as such explosive is kept, made up, and adapted for use in accordance with the regulations of the Secretary of State or the said commissioners, as the case may be; or
- (4) To any storehouse appointed for receiving any such explosive as last above mentioned in pursuance of section twenty-six of the Volunteer Act, 1863, and any Act amending the same, or otherwise, if such storehouse is approved by the Secretary of State or the Commissioners of the Admiralty, as the case may be, as a fit place for the storing of such explosive, and is managed in accordance with the regulations of a Secretary of State or such commissioners 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

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- (5) To the conveyance of any explosive under the control of a Secretary of State, the Commissioners of the Admiralty, 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 or the Commissioners of the Admiralty or 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 the Commissioner of the Admiralty or 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.

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 Commissioners of the Admiralty 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 Merchant Shipping Act, 1854.

99 Exemption of magazines in the Mersey

Nothing in this Act with respect to the keeping of gunpowder shall apply to any vessel for the storage of gunpowder moored in the river Mersey at a place appointed either before or after the passing of this Act, in pursuance of the Act of the session of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter sixty-seven, intituled " An Act to repeal so much " of an Act of the twelfth year of King George the Third relating " to the making, keeping, and carriage of gunpowder, as exempts " therefrom certain gunpowder magazines and stores near Liver-" pool, and to make certain temporary provisions with regard to " the said magazines and stores;" nor shall anything in this Act affect the powers of the Commissioners of the Admiralty, or a Secretary of State, or the Commissioners for the Conservancy of the River Mersey under the said Act:

Provided that any explosive other than, gunpowder shall not be kept in such vessel except in pursuance of a license under this Act.

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 proves that by reason of stress of weather, inevitable accident, or other emergency, the doing of such act was, under the circumstances, necessary and proper.

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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 Merchant Shipping Act, 1854, 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.

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.

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 any local authority, or of any council of a borough, or any urban sanitary authority, or on the application of any persons making, keeping, importing, exporting, or selling any explosive within the jurisdiction of any local authority, council, or urban sanitary authority, after notice 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.

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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.