



Explosives Act 1875

1875 CHAPTER 17

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, shall for every such offence, if not otherwise punishable, be liable to a penalty not exceeding five pounds, 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, shall be liable to a penalty not exceeding fifty pounds.

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 under this section; but the absence of any such notice or notices shall not exempt a person from a penalty under this section.

78 Arrest without warrant of persons committing dangerous offences

Any person who is found committing any act for which he is liable to a penalty 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 a constable, or an officer of the local authority, or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.

79 Imprisonment for wilful act or neglect endangering life or limb

Where any person is guilty of any offence which under this Act is punishable by a pecuniary penalty only, and which, in the opinion of the court that tries the case, was reasonably calculated to endanger the safety of or to cause serious personal injury to any of the public or the persons employed in or about any factory, magazine, store, or registered premises, or any harbour, railway, canal, wharf, ship, boat, carriage, or place where such offence is committed, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding six months.

80 Penalty for throwing fireworks in thoroughfare

If any person throw, cast, or fire any fireworks in or into any highway, street, thoroughfare, or public place, he shall be liable to a penalty not exceeding five pounds.

81 Forgery and falsification of documents

Every person who forges or counterfeits any license, certificate, document, or plan granted or required in pursuance or for the purposes of this Act, or gives or signs any such document or plan which is to his knowledge false in any material particular, or wilfully makes use of any such forged, counterfeit, or false license, certificate, document, or plan, shall be liable to imprisonment, with or without hard labour, for a term not exceeding two years.

82 Punishment for defacing notices

Every person who, without due authority, pulls down, injures or defaces any notice, copy of rules, or document, when affixed in pursuance of this Act, or of the special rules, shall be liable to a penalty not exceeding two pounds.

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.

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 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 within one month after it is made, if Parliament

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

be then sitting, or if not, within one month after the commencement of the then next session of

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 Orders in Council or orders of the Secretary of State, as the case may be, under this Act.

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 Requisitions, notices, &c. to be in writing, &c, and how to be served

All orders, permissions, notices, and documents issued or given by the Secretary of State for the purposes of this Act, and all notices under this Act, shall be in writing or print or partly in writing and partly in print, and all notices and documents required by this Act to be served, given, or sent by, on, or to a Government inspector or Secretary of State may be sent by post, by a prepaid letter, and if sent by post shall be deemed to have been served, given, and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service, giving, or sending, it shall be sufficient to prove that the letter containing the notice was properly addressed and prepaid and put into the post.

All notices and documents directed by or required for the purposes of this Act to be given or sent to the Secretary of State shall, if sent to a Government inspector under this Act, be deemed to have been sent to the Secretary of State.

All notices and documents directed by or required for the purposes of this Act to be given or sent to a local authority may be sent, by post or otherwise, to the clerk or office of the local authority, or delivered to some person employed by them for the purposes of this Act.

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 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 a Government inspector.

Legal Proceedings

87 Exemption of occupier from penalty upon proof of another being real offender

Where any offence under this Act for which the occupier of any factory, magazine, store, or registered premises is liable to a penalty or forfeiture has in fact been committed by some other person, such other person shall be liable to a penalty not exceeding twenty pounds.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Where such occupier is charged with an offence so committed by some other person, the occupier shall be exempt from any penalty and forfeiture upon proving that he had supplied proper means and issued proper orders for the observance and used due diligence to enforce the observance of this Act, and that the offence in question was actually committed by some other person without his connivance, and if the actual offender be alive, that he has taken all practicable means in his power to prosecute such offender to conviction.

Where a Government inspector, or an officer of the local authority, or the local authority, is satisfied, before instituting a proceeding for any offence under this Act against an occupier, that such occupier, if such proceeding were instituted against him, would, under the foregoing provisions of this section, upon taking all practicable means in his power to prosecute the actual offender to conviction, be exempt from any penalty and forfeiture, and the occupier gives all facilities in his power for proceeding against and convicting the person whom the inspector, officer, or local authority believes actually to have committed the offence, the inspector, officer, or local authority shall proceed against that person in the first instance, without first proceeding against the occupier.

The occupier or other defendant, when charged in respect of any offence by another person, may, if he think fit, be sworn and examined as an ordinary witness in the case.

Where any offence under this Act for which any warehouseman, carrier, occupier of a wharf or dock, or owner or master of any ship, boat, or carriage, is liable to a penalty or forfeiture, has in fact been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, occupier of a wharf or dock, owner, or master were such an occupier as above in this section mentioned.

88 Exemption of carrier and owner and master of ship where consignee, &c. in fault

Where a carrier or owner or master of a ship or boat is prevented from complying with this Act by the wilful act, neglect, or default of the consignor or consignee of the explosive, or other person, or by the improper refusal of the consignee or other person to accept delivery of the explosive, such consignor, consignee, or other person who is guilty of such wilful act, neglect, default, or refusal shall be liable to the same penalty to which the carrier, owner, or master is liable for a breach of this Act, and his conviction shall exempt the carrier, owner, or master from any penalty or forfeiture under this Act.

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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.

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.

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.

92 Power of offender in certain cases to elect to be tried on indictment, and not by summary jurisdiction

Where a person is accused before a court of summary jurisdiction of any offence under this Act, the penalty for which offence as assigned by this Act, exclusive of forfeiture, exceeds one hundred pounds, the accused may, on appearing before the court of summary jurisdiction, declare that he objects to being tried for such offence by a court of summary jurisdiction, and thereupon the court of summary jurisdiction may deal with the case in all respects as if the accused were charged with an indictable offence and not an offence punishable on summary conviction, and the offence may be prosecuted on indictment accordingly.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

93 Appeal to quarter sessions

If any party feels aggrieved by any summary order made by a court of summary jurisdiction under this Act, or by any order or conviction made by a court of summary jurisdiction in determining any complaint or information under this Act, by which order or conviction the sum adjudged to be paid, including costs, and including the value of any forfeiture, exceeds twenty pounds, the party so aggrieved may appeal therefrom to quarter sessions, in manner provided with respect to an appeal to quarter sessions by section one hundred and ten of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-six.

94 Constitution of court

The court of summary jurisdiction, when hearing and determining an information or complaint, in respect of any offence under this Act, shall be constituted either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

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

All penalties imposed in pursuance of this Act by a court of summary jurisdiction upon the prosecution of a Government inspector shall, notwithstanding anything in any other Act, be paid into the receipt of Her Majesty's Exchequer, in such manner as the Treasury may from time to time direct, and be carried to the Consolidated Fund.

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 ingredients may be forfeited, sold, destroyed, or otherwise disposed of, in like manner as the contents

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

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,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.

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
- (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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.

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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.

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.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 explosives so defined.

107 Definition of " chief officer of police " and " police district."

In this Act—

The expression " chief officer of police " means—

- (1) In the city of London and the liberties thereof, the commissioner of city police; and
- (2) In the metropolitan police district, the commissioner or any assistant commissioner or any district superintendent of metropolitan police; and
- (3) Elsewhere the chief constable, or head constable, or other officer, by whatever name called, having the chief command of the police in the police district in reference to which such expression occurs :

The expression " police district" means—

- (1) The city of London and the liberties thereof; and
- (2) The metropolitan police district; and
- (3) Any county, or liberty of a county, borough, town, place, or union, or combination of places maintaining a separate police force; and all the police under one chief constable shall be deemed to constitute one force for the purposes of this section.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 :

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:

The expression " Secretary of State " means one of Her Majesty's Principal Secretaries of State :

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 " :

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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 :

The expression "prescribed" means prescribed by Order in Council:

The expression "borough" means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of municipal corporations in England and Wales," and the Acts amending the same :

The expression "county" does not include a county of a city or a county of- a town :

Every riding, division, liberty, or part of a county having a separate commission of the peace and separate court of quarter sessions is for the purposes of this Act to be deemed to be a county:

The expressions "urban sanitary district" and "urban sanitary authority" mean the districts and authorities declared to be urban sanitary districts and authorities by the Public Health Act, 1872; and any urban sanitary district which is an Improvement Act district within the meaning of that Act, is in this Act referred to as an improvement district; and the expression "Improvement Commissioners" in this Act means the Commissioners who are the urban sanitary authority for such district:

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 "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 compositions of an " explosive nature, and concerning the manufacture, sale, and " use of fireworks," and the Acts amending the same :

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

The expression " Summary Jurisdiction Acts " means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled " An Act to facilitate the performance of the duties of justices of the peace " out of sessions within England and Wales with respect to " summary convictions and orders," and any Acts amending the same:

The expression " court of summary jurisdiction " means any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to :

The expression " quarter sessions " includes general sessions.

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) The expression " borough" means any royal burgh, and any burgh returning or contributing to return a member to Parliament:
- (2) The expression " a master of one of the superior courts " means the auditor of the Court of Session :
- (3) The expression " umpire " means oversman :
- (4) The expression " attending before a court of record " means attending on citation the Court of Justiciary :
- (5) The expression " stipendiary magistrate " means a sheriff or sheriff substitute:
- (6) The expression " defendant" means defender and includes respondent:
- (7) The expression " chief officer of police" means the chief constable, superintendent of police, or other officer, by whatever name called, having the chief command of the police in any district maintaining a separate police force:
- (8) The expression " chairman of quarter sessions " means the sheriff of the county:
- (9) The expression " misdemeanour " means a crime and offence :
- (10) The expression "the court of summary jurisdiction" means the sheriff of the county or any one of his substitutes :
- (11) This Act shall be read and construed as if for the expression " The Lands Clauses Consolidation Act, 1845," where-ever it occurs therein, the expression " The Lands Clauses Consolidation (Scotland) Act, 1845," were substituted.

110 Local authority

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

1. In any borough the magistrates and town council; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

2. In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority for a borough, the harbour authority, to the exclusion of any other local authority; and
3. In any place other than a borough or harbour as aforesaid, the justices of the peace for the county in which such place is situated.

111 Expenses of local authority

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

- (a) In any borough the police rate or assessment; 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) In any place other than a borough or harbour as aforesaid the county general assessment.

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.

112 Secretary of State empowered to declare police commissioners the local authority in certain cases

The police commissioners of any burgh in Scotland, not being a burgh as defined by this Act, may, by order of a Secretary of State made upon the application of such commissioners and published in the Edinburgh Gazette, be declared to be a local authority: for the purposes of this Act, and thereupon shall become the local authority accordingly for such part of their burgh as is not included in any harbour to the exclusion of the justices of the peace for any county in which such burgh is situated: Provided that—

- (a) On such police commissioners becoming such local authority, the local rate for defraying their expenses under this Act shall be the police rate or assessment of the burgh; and
- (b) Such rate or assessment, or any increase thereof, may, notwithstanding any limitation in any Act, be levied for the purposes of this Act.

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

In Scotland, every local authority under this Act shall have and may exercise the same powers for the purchase and taking of lands otherwise than by agreement, for the purpose of erecting a gunpowder magazine thereon, that any local authority under "The Public Health (Scotland) Act, 1867," have and may exercise under the provisions of section ninety of the said last-mentioned Act.

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,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

compel such harbour authority, company, or local authority to discharge such obligation:

- (b) Every offence under this Act shall be prosecuted, every penalty recovered, and every forfeiture or order made at the instance of the Lord Advocate or of the procurator fiscal of the sheriff court:
- (c) The proceedings may be on indictment in the Court of Justiciary in Edinburgh or on circuit, or in the sheriff court, or may be taken summarily in the sheriff court under the provisions of the Summary Procedure Act, 1864, as the Lord Advocate shall direct:
- (d) All costs and moneys directed to be recovered as penalties may be recovered in the sheriff court at the instance of the procurator fiscal of that court, under the provisions of the Summary Procedure Act, 1864:
- (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 the Queen's and Lord Treasurer's Remembrancer, 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:
- (f) In Scotland, every person found liable in any penalty or costs or to pay any money directed by this Act to be recovered as a penalty, shall be liable, in default of immediate payment, to imprisonment for a term not exceeding six months, or until such penalty, costs, or money shall be sooner paid.

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 Board of Trade may, if they think it expedient, make byelaws under this Act for the lower estuary of the Clyde as if it were a harbour and they were the harbour authority, and such byelaws shall be deemed to have been made by a harbour authority with the sanction of the Board of Trade; and they 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 harbour authority and an officer of a harbour authority have respectively under this Act in a harbour.

Application of Act to Ireland

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—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (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 exercise-able 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 Public Health, Ireland, Act, 1874.

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 place 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.

All expenses incurred in any petty sessions district which are by this Act payable out of poor rates shall be paid upon the written order of the local authority which shall have incurred the same by the treasurer of the poor law union, or the treasurers of the poor law unions within which such petty sessions district is situate, according to the terms of such order.

Where such petty sessions district is situate within two or more poor law unions, the local authority shall in making such order apportion the amount of such expenses

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

fairly between such unions, according to the net annual value of the rateable property forming the parts of such petty sessions district situate within the same

All moneys by this Act made payable by the treasurer of any poor law union in respect of expenses incurred in any petty sessions district wholly or partly within such union by the local authority shall be paid by him out of the funds then lying in his hands to the credit of the guardians of such union, and such guardians shall in their account with the electoral divisions of such union, debit each electoral division wholly or partly within such petty sessions district with its proportion of the sum so paid by the treasurer according to the net annual value for the time being of the rateable property within such electoral division, and also within such petty sessions district.

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.

120 Definitions

In this Act with respect to Ireland—

The expression " police district " means—

- (1) The police district of Dublin metropolis; and
- (2) The town of Belfast; and
- (3) Elsewhere in Ireland, any district, whether city, town, or part of a county, over which is appointed a sub-inspector of the Royal Irish Constabulary.

The expression " chief officer of police " means—

- (1) In the police district of Dublin metropolis, the chief commissioner of police for the said district; and in his absence the assistant commissioner of police for the said district; and
- (2) In the town of Belfast, the town inspector, and in his absence the sub-inspector of the Royal Irish Constabulary acting for him; and
- (3) Elsewhere in Ireland, the sub-inspector of the Royal Irish Constabulary, and in his absence the head constable of such force acting for him.

The expression " the county court judge " means the judge of the civil bill court.

The expression " borough " means any place for the time being subject to the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, intituled " An Act for the regulation of municipal corporations in " Ireland."

The expression " Summary Jurisdiction Acts " means, as regards the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, and elsewhere in Ireland, the Act of the session of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter ninety-three, intituled " An Act to consolidate and amend the Acts regulating the proceedings of petty sessions, and the duties of justices " of the peace out of quarter sessions in Ireland," and any Acts amending the same.

The expression " court of summary jurisdiction " means any justice or justices of the peace, or other magistrate or officer, by whatever name called,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to.

121 Application of penalties in Ireland

Except as by this Act expressly provided, all penalties imposed under this Act in Ireland shall be applied in manner directed by the Fines (Ireland) Act, 1851, and any Acts amending the same.

Repeal of Acts

122 Repeal of certain Acts and part of Act in 4th and 5th schedules

The Acts specified in the fourth schedule to this Act are hereby repealed from and after the commencement of this Act and the Act specified in the fifth schedule to this Act is hereby repealed from and after the commencement of this Act to the extent in the third column of that schedule mentioned.

Provided that—

- (1) The enactments hereby repealed shall continue in force—

For the purpose of any business or thing which any person is authorised to carry on or do in like manner as if this Act had not passed, for the time during which such business or thing is authorised to be carried on or done; and

- (2) Any rules made in pursuance of any enactment hereby repealed, for the purpose of regulating the conduct of servants and workmen employed in any mill, magazine, or place, shall continue in force, and the penalties under the said enactments for a breach of such rules may be enforced until the expiration of three months after the grant of a continuing certificate under this Act to the occupier of such mill, magazine, or place, and such further period as the Secretary of State may by order direct, for the purpose of enabling such occupier to make special rules under this Act; and
- (3) This repeal shall not affect—
- (a) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; or
 - (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or
 - (c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or
 - (d) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed; and
- (4) This repeal shall not revive any enactment, right, privilege, matter, or thing not in force or existing at the commencement of this Act.