



Explosives Act 1875

1875 CHAPTER 17 38 and 39 Vict

PART III.—ADMINISTRATION OF LAW

Government Supervision

Inspection

53—^{F1}
57.

Textual Amendments

F1 Ss. 53–57, 59, 62, 65, 66 repealed by S.I. 1974/1885, Sch. 1

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

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

- (a) Any person acting under the Board as an inspector of railways to inquire into the observance of this Act by any railway company or canal company, and generally to act with respect to any railway or canal as an inspector under this Act; or
- (b) Any person acting under the Board as an inspector or otherwise for the purposes of the [^{F2}Merchant Shipping Act 1995], to inquire into the observance of this Act in any harbour or in the case of any ship, and generally to act in such harbour and with respect to ships as an inspector under this Act.

The Board of Trade may revoke any such order; and each such inspector shall, while such order is in force, have for that purpose the same powers and authorities as he has under the Acts in pursuance of which he was originally appointed inspector, and also [^{F3}the power conferred on inspectors by the ^{M1}Health and Safety at Work etc. Act 1974.]

Status: Point in time view as at 01/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Explosives Act 1875, Part III.—Administration of Law. (See end of Document for details)

Textual Amendments

- F2** Words in s. 58(b) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 5(a)** (with s. 312(1))
- F3** Words substituted by S.I. 1974/1885, **Sch. 2 para. 16**

Modifications etc. (not altering text)

- C1** Functions of Board of Trade under s. 58 transferred by **Ministry of Transport Act 1919 (c. 50), s. 2**, S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), art. 2, 1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1), S.I. 1953/1204 (1953 I, p. 1225), art. 3(1) and 1959/1768 (1959 I, p. 1793), art. 3(2) now exercisable (except s. 58(b) so far as relates to ships) by Secretary of State: S.I. 1970/1681, **art. 2(1)** (s. 58(b) so far as relates to ships) concurrently by Secretary of State: S.I. 1965/145, **art. 2, Sch. 1** and 1970/1537, art. 2(1)(a)

Marginal Citations

- M1** 1974 c. 37.

59 ^{F4}

Textual Amendments

- F4** Ss. 53–57, 59, 62, 65, 66 repealed by S.I. 1974/1885, **Sch. 1**

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

A copy of any license confirmed by the Secretary of State under this Act, and of any special rules under this Act, certified by [^{F5}an inspector appointed by the Health and Safety Executive under section 19 of the ^{M2}Health and Safety at Work etc. Act 1974], shall be evidence of such license and special rules respectively, and of the fact of such license having been duly granted and confirmed and such special rules duly established under this Act.

Textual Amendments

- F5** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 5**

Modifications etc. (not altering text)

- C2** Unreliable marginal note

Marginal Citations

- M2** 1974 c. 37.

61 †Keeping and carriage of samples by Government inspector.

[^{F6}An inspector appointed by the Health and Safety Executive under section 19 of the ^{M3}Health and Safety at Work etc. Act 1974], and any other person authorised by him for the purpose, may keep and convey any sample taken for the purposes of this Act by or by authority of such inspector, so that the amount of it do not exceed what is

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reasonably necessary for the purpose of enabling such inspector to perform his duties under this Act, and be kept and carried with all due precautions to prevent accident; and such inspector or person shall not be liable to any penalty, punishment, or forfeiture under this or any other Act for keeping or conveying such sample.

Textual Amendments

F6 Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 5**

Modifications etc. (not altering text)

C3 Unreliable marginal note

Marginal Citations

M3 1974 c. 37.

62^{F7}

Textual Amendments

F7 Ss. 53–57, 59, 62, 65, 66 repealed by S.I. 1974/1885, **Sch. 1**

Accidents

63 Notice to be given of accidents connected with explosive.

Whenever there occurs any accident by explosion or by fire in or about or in connexion with any factory, magazine, or store, or any accident by explosion or by fire causing loss of life or personal injury in or about or in connexion with any registered premises, the occupier of such factory, magazine, store, or premises shall forthwith send or cause to be sent notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to [^{F8}the Health and Safety Executive] . . . ^{F9}

Where in, about, or in connexion with any carriage, ship, or boat, either conveying an explosive, or on or from which an explosive is being loaded or unloaded, there occurs any accident by explosion or by fire causing loss of life or personal injury, or if the amount of explosive conveyed or being so loaded or unloaded exceeds in the case of gunpowder [^{F10}500 kilograms] , and in the case of any other explosive the prescribed amount, any accident by explosion or by fire, the owner or master of such carriage, ship, or boat, and the owner of the explosive conveyed therein or being loaded or unloaded therefrom, or one of them, shall forthwith send or cause to be sent notice of such accident, and of the loss of life or personal injury, if any, occasioned thereby, to [^{F8}the Health and Safety Executive].

Every such occupier, owner, or master as aforesaid who fails to comply with this section shall be [^{F11}guilty of an offence].

Textual Amendments

F8 Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**

F9 Words repealed by S.I. 1974/1885, **Sch. 1**

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- F10** Words substituted by S.I. 1984/510, reg. 2, Sch. 1
F11 Words substituted by S.I. 1974/1885, Sch. 2 para. 18

64 Reconstruction of buildings destroyed by accident.

Where an accident by explosion or fire has occurred in, and wholly or partly destroyed a factory magazine, or any magazine or store, the factory magazine, magazine, or store shall not be reconstructed, and any further supply of an explosive shall not be put therein, except with the permission of [^{F12}the Health and Safety Executive] ; and any explosive put therein in contravention of this section shall be deemed to be kept in an unauthorised place, and the offence may be punished accordingly:

Provided, that this enactment shall not prevent the reconstruction of a factory magazine in any lawfully existing factory upon such site in the factory, and with such precautions as may seem reasonable to [^{F12}the Health and Safety Executive] , due regard being had to the working of the factory as well as to the safety of the public and of the persons employed therein.

Where an accident by explosion or fire in a factory has wholly or partly destroyed any building of such factory as to which [^{F13}an inspector appointed by the Health and Safety Executive under section 19 of the ^{M4}Health and Safety at Work etc. Act 1974] has previously to the accident sent to the occupier a notice that the building is unduly near to some building or work outside the factory, such building shall be reconstructed only upon such site in the factory and with such precautions as may seem reasonable to [^{F12}the Health and Safety Executive] , due regard being had to the working of the factory as well as to the safety of the public and of the persons employed therein.

Where an accident by explosion or by fire in a factory has wholly or partly destroyed two or more buildings in such factory, not more than one of such buildings shall be reconstructed except with the permission of [^{F12}the Health and Safety Executive] ; provided that this enactment shall not apply to any buildings in a lawfully existing factory, if either both or all such buildings are incorporating mills, or if as regards any other buildings [^{F13}an inspector appointed by the Health and Safety Executive under section 19 of the ^{M5}Health and Safety at Work etc. Act 1974] has not previously to the accident sent to the occupier a notice that such buildings are unduly near to each other.

Where a building is constructed on a different site in pursuance of this section, [^{F12}the Health and Safety Executive] shall cause the necessary alterations to be made in the license; and such alterations shall be deemed to be part of the license.

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

Textual Amendments

- F12** Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3
F13 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 5

Marginal Citations

- M4** 1974 c. 37.
M5 1974 c. 37.

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65, 66. F14

Textual Amendments

F14 Ss. 53–57, 59, 62, 65, 66 repealed by S.I. 1974/1885, Sch. 1

Local Supervision

Definition and Powers of Local Authority

67 Definition of local authority.

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

- (1) In the city of London, except as hereafter in this section mentioned, the court of the Lord Mayor and aldermen of the said city; and
- (2) F15
- [^{F16F17}(3) Outside Greater London [^{F18}and a metropolitan county]] , the council of a county [^{F19}or county borough]; and
- [^{F16}(3A) In a metropolitan county, the fire authority; and]
- (4) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority, before in this section mentioned, the harbour authority, to the exclusion of any other local authority; and
- (5) F20

Textual Amendments

- F15 S. 67(2) repealed by [London Government Act 1963 \(c. 33\)](#), **Sch. 18 Pt. II**
- F16 S. 67(3A) inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 37, **Sch. 11 para. 3**
- F17 S. 67(3) substituted by [Local Government Act 1972 \(c. 70\)](#), **Sch. 29 para. 19**
- F18 Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 37, **Sch. 11 para. 3**
- F19 Words in s. 67(3) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 3** (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 4, **Sch. 2**
- F20 S. 67(5) repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

Modifications etc. (not altering text)

- C4 S. 67 explained by [London Government Act 1963 \(c. 33\)](#), **s. 50(1)(3)**
- C5 Functions of court of Lord Mayor and aldermen of city of London under this Act now exercisable by common council: [Local Government Act 1888 \(c. 41\)](#), **s. 41(1)(a)**

68 F21

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Textual Amendments

F21 S. 68 repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

69 †Duty of local authority and power of officer.

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

...
F22

Textual Amendments

F22 Words repealed by [S.I. 1974/1885](#), [Sch. 1](#)

Modifications etc. (not altering text)

C6 A dagger appended to a marginal note means that it is no longer accurate

70 Expenses of local authority.

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

...
F23

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

...
F24

[^{F25}And the local rate or any increase of the local rate may notwithstanding any limitation in any Act be levied for the purposes of this Act.]

Textual Amendments

F23 Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), [Sch. 14](#), [London Government Act 1963 \(c. 33\)](#), [Sch. 18 Pt. II](#) and [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

F24 Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), [Sch. 14](#) and [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

F25 Words repealed (S.) by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), [Sch. 14](#)

Power of Local Authority to provide Carriages and Magazines

71 Undertaking of carriage by harbour authority and canal company.

Every harbour authority and canal company shall, in addition to any other powers they may have for the like purpose, have power to provide carriages, ships, and boats for the conveyance, loading, or unloading of an explosive within the jurisdiction of such

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authority or company, and may charge a reasonable sum fixed by a byelaw under this Act for the use of such carriage, ship, or boat.

72 Provision of magazines by local authority.

Where any local authority [^{F26}other than justices in petty sessions satisfy][^{F27}the Health and Safety Executive] that the erection of a magazine by such authority, either within or without their jurisdiction, for the keeping of any explosive, would conduce to the safety of the public within their jurisdiction, and would not be injurious to any harbour or [^{F26} . . . ^{F28}]district out of their jurisdiction, [^{F27}the Health and Safety Executive] may grant a license under this Act for such magazine.

Where the magazine is without the jurisdiction of the local authority erecting the same, the assent of the local authority within whose jurisdiction the site is situate to such site shall be applied for in manner provided by this Act; and when the magazine is within the said jurisdiction, notice of the application to [^{F27}the Health and Safety Executive] for the license shall be given in like manner as notice of the intention to apply for the assent of the local authority to a site is required by this Act to be given.

The local authority may, for the purpose of any such license, [^{F29}acquire any land or right over land, or appropriate any land or right belonging to them, and] acquire or build a magazine, and may maintain and manage such magazine, and may charge for the use by persons of any such magazine such reasonable sums as they may from time to time, with the approval of [^{F27}the Health and Safety Executive] , fix.

[^{F29}Such sums shall be applied in aid of the local rate, and the expenses incurred for the purposes of this section may be defrayed out of the local rate][^{F30}and the local authority may borrow][^{F31}on the security of the local rate][^{F30}the amount required for the purpose of acquiring any land or right over land, or acquiring or building a magazine in pursuance of this section.]

[^{F31}Any such loan shall be made with the approval in the case of a council, of the Treasury, [^{F26}and in the case of Improvement Commissioners, of the [^{F32}Secretary of State]], and in the case of a harbour authority, of the [^{F33}Secretary of State.]

For the purpose of such borrowing the clauses of the ^{M6}Commissioners Clauses Act 1847, with respect to the mortgages to be executed by the Commissioners, shall be incorporated with this Act, and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the local authority which is borrowing shall be deemed to be the Commissioners

For the purpose of the purchase of any land or right over land for the purpose of this section the ^{M7}Lands Clauses Consolidation Act 1845, and the Acts amending the same, (except so much as relates to the purchase of land otherwise than by agreement,) shall be incorporated with this section, and in construing those Acts for the purposes of this section the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean the local authority, and land shall be construed to include any right over land.]

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

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Textual Amendments

- F26** Words in *s. 72* repealed (E.W.S.) (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.
- F27** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**
- F28** Words omitted by virtue of **Local Government Act 1894 (c. 73), s. 21(1)** and **Local Government Act 1972 (c. 70), s. 179(3)** and repealed (E.W.S) (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.
- F29** Words repealed by (E.W. except London) **Local Government Act 1933 (c. 51), Sch. 11 Pt. IV** and (S.) **Local Government (Scotland) Act 1967 (c. 43), Sch. 14** except so far as relates to harbour authorities and by **London Government Act 1939 (c. 40), Sch. 8** so far as relates to London County Council
- F30** Words repealed (E.W. except London) by **Local Government Act 1933 (c. 51), Sch. 11 Pt. IV** except so far as relates to harbour authorities
- F31** Words repealed by (E.W. except London) **Local Government Act 1933 (c. 51), Sch. 11 Pt. IV** and (S.) **Local Government (Scotland) Act 1947 (c. 43), Sch. 14** except so far as relates to harbour authorities
- F32** Words substituted by virtue of **Ministry of Health Act 1919 (c. 21), s. 3(1)(a), Sch. 1 para. 1** and S.I. 1968/1699, **arts. 2, 5(4)(a)** and repealed (E.W.S.) (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.VII**.
- F33** Words substituted by virtue of **Ministry of Transport Act 1919 (c. 50), s. 2, Sch. 1 para. 1**, S.R. & O. 1919/1440 (Rev. XV, p. 211: 1919, p. 849), 1941/654 (Rev. XV, p. 228: 1941, p. 1221), arts. 2, 3, 1946/375 (Rev. XV, p. 229: 1946, p. 1009), art. 2(1)(3), S.I. 1953/1204 (1953 I, p. 1225), art. 3(1), 1959/1768 (1959 I, p. 1793) art. 3(2) and 1970/1681, arts. 2(1), 6(3)

Marginal Citations

- M6** 1847 c. 16.
- M7** 1845 c. 18.

General Power of Search

73

F34

Textual Amendments

- F34** *Ss. 73, 75* repealed by S.I. 1974/1885, **reg. 2(a)** Sch. 1, but by virtue of amendments to that S.I. by S.I. 1974/2166, **reg. 2, s. 73** was saved in so far as relating to the powers of a constable and *s. 75* was saved in so far as relating to the powers of officers of police

74

Seizure and detention of explosives liable to forfeiture.

Where any of the following officers, namely, any ^{F35} inspector appointed by the Health and Safety Executive under section 19 of the ^{M8} Health and Safety at Work etc. Act 1974], or any constable, or any officer of the local authority, has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act, he may seize and detain the same until some court of summary jurisdiction has determined whether the same is or is not so liable to be forfeited, and with respect thereto the following provisions shall have effect:

- (1) The officer seizing may either require the occupier of the place in which it was seized (whether a building or not, or a carriage, boat, or ship) to detain the same in such place or in any place under the control of such occupier, or may remove it in such manner and to such place as will in his opinion least endanger the public safety, and there detain it, and may, where the matter appears to him to be urgent and fraught with serious public

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danger, and he is [^{F35}an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974] , or is authorised by an order from [^{F35}an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974] or a justice of the peace, or from a superintendent or other officer of police of equal or superior rank, cause the same to be destroyed or otherwise rendered harmless; but before destroying or rendering harmless the same he shall take and keep a sample thereof, and shall, if required, give a portion of the sample to the person owning the explosive, or having the same under his control at the time of the seizure; and any such occupier who, by himself or by others, fails to keep the same when he is required in pursuance of this section to detain it, and any such occupier or other person who, except with the authority of the officer seizing the same, or of [^{F35}an inspector appointed by the Health and Safety Executive under section 19 of the ^{M9}Health and Safety at Work etc. Act 1974] , or in case of emergency for the purpose of preventing explosion or fire, removes, alters, or in any way tampers or deals with the same while so detained, shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to forfeit all explosives, and ingredients thereof which are at the time of the offence in his possession or under his control at the said place:

- (2) The proceedings before a court of summary jurisdiction for determining whether the same is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure; and
- (3) The receptacles containing the same may be seized, detained, and removed in like manner as the contents thereof; and
- (4) The officer seizing the same may use for the purposes of the removal and detention thereof any ship, boat, or carriage in which the same was seized, and any tug, tender, engine, tackle, beasts, and accoutrements belonging to or drawing or provided for drawing such ship, boat, or carriage, and shall pay to the owner a reasonable compensation for such use, to be determined, in case of dispute, by a court of summary jurisdiction, and to be recovered in like manner as penalties under this Act; and
- (5) The same shall, so far as practicable, be kept and conveyed in accordance with this Act, and with all due precaution to prevent accident, but the person seizing, removing, detaining, keeping, or conveying the same shall not be liable to any penalty, punishment, or forfeiture under this or any other Act, or to any damages, for keeping or conveying the same, so that he use all such due precautions as aforesaid; and
- (6) The officer seizing the same, or dealing with the same in pursuance of this section, shall not be liable to damages or otherwise in respect of such seizure or dealing, or any act incidental to or consequential thereon, unless it is proved that he made such seizure without reasonable cause, or that he caused damage to the article seized by some wilful neglect or default.

Textual Amendments

F35 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 5

Marginal Citations

M8 1974 c. 37.

M9 1974 c. 37.

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75 F36

Textual Amendments

F36 Ss. 73, 75 repealed (E.W.S.) by [S.I. 1974/1885](#), [reg. 2\(a\)](#) Sch. 1, but by virtue of amendments to that S.I. by [S.I. 1974/2166](#), [reg. 2](#), s. 73 was saved in so far as relating to the powers of a constable and s. 75 was saved in so far as relating to the powers of officers of police; and in so far as saved s. 75 amended (1.4.1998) by [1997 c. 50](#), s. 134(1), [Sch. 9 para. 1](#); [S.I. 1998/354](#), [art. 2\(2\)\(ay\)](#) S. 75, so far as it is saved, is amended (1.4.2006) by the Serious Organised Crime and Police Act 2005 c. 15, [Sch. 4](#), para. 1(2)(a)(b)(3); [S.I. 2006/378](#), art. 4(1), [Sch. 10](#)
Words in s. 75 repealed (N.I.) (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt. VII](#).

76 F37

Textual Amendments

F37 S. 76 repealed by [S.I. 1974/1885](#), [Sch. 1](#)

Status:

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