

SCHEDULE 5

AMENDMENTS

PART 1

AMENDMENTS TO PRIMARY LEGISLATION

Explosives Act 1875

1.—(1) The 1875 Act is amended as follows.

(2) Omit sections 4 to 22 and for section 23 (precautions against fire or explosion to be taken by occupier) substitute —

“Precautions against unauthorised access

23.—(1) The occupier of every premises at which gunpowder is manufactured or stored shall take all due precaution for preventing unauthorised persons having access to the premises or to the gunpowder therein.

(2) In the event of any breach (by any act or default) of subsection (1), the occupier shall be guilty of an offence.

(3) In this section, “premises” has the meaning given in section 53 of the Health and Safety at Work etc. Act 1974.”.

(3) Omit sections 24, 26 to 29, 35, 36, 38, 40 and 41.

(4) In section 43 (power to prohibit, manufacture, importation, storage and carriage of specially dangerous explosives) —

(a) omit “, either absolutely, or except in pursuance of a license of the Health and Safety Executive under this Act”; and

(b) for the words from “Provided that” to “conveyance of explosives” substitute “A person who manufactures, keeps or conveys any explosive in contravention of any such Order shall be guilty of an offence and liable to the penalties specified in section 33(3) of the Health and Safety at Work etc. Act 1974.”.

(5) Omit sections 44 to 51, 58, 60, 63 and 64.

(6) In section 67 (definition of local authority) —

(a) in paragraph (1), omit “except as hereafter in this section mentioned.”;

(b) after paragraph (1), insert —

“(1A) In a London borough, the council of the borough; and”;

(c) omit paragraph (4) and the word “and” preceding it.

(7) Omit sections 70 to 72, 77, 78 and 82.

(8) In section 83 (provisions as to Orders in Council and orders of the Secretary of State), omit—

(a) “, and a Secretary of State may by order.”;

(b) “or orders of the Secretary of State, as the case may be.”; and

(c) the words from “The provisions of section 50” to the end of the section.

(9) Omit sections 84 and 86.

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- (10) In section 91 (prosecution of offences either summarily or on indictment), omit the words from “Provided that” to “exceed one month”.
- (11) In section 97 (exemption of Government factories, etc, from the Act), omit paragraphs (3) and (4) and the words from “Provided that” to the end of the section.
- (12) Omit sections 98 and 101.
- (13) In section 102 (saving clause as to liability), omit the words from “A continuing certificate” to the end of the section.
- (14) Omit sections 103, 105 and 106.
- (15) In section 108 (general definitions) —
 - (a) in the definition of “this Act”, omit “certificate, byelaw, regulation, rule,”;
 - (b) in the definition of “store”, omit “an existing gunpowder store as defined by this Act, or” and “licensed by a license granted by a local authority under this Act”; and
 - (c) omit the definitions of “existing”, “factory magazine”, “harbour authority”, “canal company”, “railway company”, “safety cartridges” and “Gunpowder Act 1860”.
- (16) In section 109 (definitions in relation to application of Act to Scotland), omit paragraph (11).
- (17) In section 110 (local authority), omit paragraph 2 and the word “and” preceding it.
- (18) In section 111 (expenses of local authority), omit paragraph (b) and the word “and” preceding it.
- (19) Omit section 113.
- (20) In section 114 (provision for making and enforcing byelaws, &c in relation to Scotland), omit paragraph (a).
- (21) Omit Schedule 1.

Celluloid and Cinematograph Film Act 1922

2. In section 9 of the Celluloid and Cinematograph Film Act 1922(1) (definitions), in the definition of “celluloid”, for “Explosives Act 1875” substitute “Manufacture and Storage of Explosives Regulations 2005”.

Explosives Act 1923

3. The Explosives Act 1923(2) is repealed.

London Building Act 1930

4. In section 143(4)(a) of the London Building Act 1930(3) (regulations for building near dangerous business), for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

Acquisition of Land (Authorisation Procedure) Act 1946

5. In Schedule 4 to the Acquisition of Land (Authorisation Procedure) Act 1946(4) (minor and consequential amendments), omit the entry relating to the Explosives Act 1875.

(1) 1922 c. 35.
(2) 1923 c. 17.
(3) 1930 c. clviii.
(4) 1946 c. 49 (9 & 10 Geo. 6.).

National Parks and Access to the Countryside Act 1949

6. In section 80 of the National Parks and Access to the Countryside Act 1949⁽⁵⁾ (provisions as to danger areas), omit subsections (5) and (6).

Fireworks Act 1951

7.—(1) The Fireworks Act 1951⁽⁶⁾ is amended as follows.

(2) In section 1 (destruction of dangerous fireworks), in subsections (1) and (2), omit “, magazine” in each place where it occurs.

(3) In section 2 (determination or amendment of licence for a factory where dangerous fireworks are made) —

(a) in subsection (2), for “the principal Act” substitute “the 2005 Regulations”;

(b) in subsection (3) —

(i) for “the principal Act” where these words first appear, substitute “the 2005 Regulations” and where they appear for the second time, substitute “those Regulations”;

(ii) for “that Act”, substitute “those Regulations”; and

(iii) for the proviso, substitute “Despite the determination of the licence, no proceedings shall be taken for breach of regulation 10 of the 2005 Regulations in respect of fireworks kept at the factory in question in pursuance of a requirement of an inspector under section 1 of this Act.”;

(c) in subsection (4), for “the principal Act” in each place substitute “the 2005 Regulations”; and

(d) omit subsection (6).

(4) Omit section 4 (determination or amendment of licences for factory where there is negligent manufacture).

(5) In section 5 (marking of fireworks) —

(a) omit subsection (5); and

(b) in subsection (8), for “a government inspector for the purposes of the principal Act” substitute “an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974”.

(6) Omit section 7 (small firework factory licences).

(7) For section 9 (interpretation) substitute —

“Interpretation

9. In this Act —

“the 2005 Regulations” means the Manufacture and Storage of Explosives Regulations 2005;

“explosives” has the same meaning as in the Explosives Act 1875;

“factory” means any place at which explosives are manufactured under a licence granted under regulation 13 of the 2005 Regulations;

⁽⁵⁾ 1949 c. 97.

⁽⁶⁾ 1951 c. 58 (14 & 15 Geo.6); amended by the Criminal Justice Act 1982 (c. 48), sections 38, 40 and 46, and S.I.1974/1885. Sections 1, 2, 5 and 9 are modified by virtue of section 80(1) of the 1974 Act. Sections 4 and 7 are “existing statutory provisions” within the meaning of section 53 of the 1974 Act and are repealed by virtue of section 15(3)(a) of that Act.

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“occupier”, in the case of any manufacture, includes any person carrying on such manufacture; and

“store” means any place at which explosives are stored —

- (a) by a person registered under regulation 11 of the 2005 Regulations 2005, or
- (b) under a licence granted under regulation 13 of those Regulations.”.

Emergency Laws (Miscellaneous Provisions) Act 1953

8.—(1) The Emergency Laws (Miscellaneous Provisions) Act 1953(7) is amended as follows.

- (2) Section 3 (extension of control of certain explosives) is omitted.
- (3) In section 12(3) (provisions as to orders), omit “three or”.
- (4) In section 13 (application to Northern Ireland), omit “three”.

London Government Act 1963

9. In section 50 of the London Government Act 1963(8) (explosives and petroleum spirit), omit subsections (1) and (3).

Public Expenditure and Receipts Act 1968

10. In Schedule 3 to the Public Expenditure and Receipts Act 1968(9) (variation of fees, etc.), omit entry number 4 (relating to the Explosives Act 1875).

Trade Descriptions Act 1968

11. In section 32(2) of the Trade Descriptions Act 1968(10) (power to exempt goods sold for export, etc), for “Explosives Acts 1875 and 1923” substitute “Manufacture and Storage of Explosives Regulations 2005”.

Port of London Act 1968

12. In the Port of London Act 1968(11), omit section 166 (dangerous goods byelaws).

Fire Precautions Act 1971

13. In Schedule 2 to the Fire Precautions Act 1971(12) (which modifies the Act in relation to certain premises), in paragraph 7, for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

Health and Safety at Work etc Act 1974

14. In Schedule 1 to the Health and Safety at Work etc Act 1974(13) (existing enactments which are relevant statutory provisions), omit the entries relating to the Explosives Act 1923, the Fireworks Act 1951 and the Emergency Laws (Miscellaneous Provisions) Act 1953.

(7) 1953 c. 47. Section 12 is modified by virtue of section 80(1) of the 1974 Act. Section 3 is an “existing statutory provision” within the meaning of section 53 of the 1974 Act and is modified by virtue of section 15(3)(a) of that Act.

(8) 1963 c. 33.

(9) 1968 c. 14.

(10) 1968 c. 29; subsection (2) was inserted by the Weights and Measures Act 1985 (c. 72), section 97, Schedule 12, paragraph 4(2).

(11) 1968 c. 32; section 166 was partially repealed by S.I. 1987/37, regulation 47(5) and Part II of Schedule 8.

(12) 1971 c. 40. Schedule 2 was inserted by section 16(2) of and Schedule 1 to the Fire Safety and Safety of Places of Sport Act 1987 c. 27.

(13) 1974 c. 37.

Control of Pollution Act 1974

15. Until the coming into force of its repeal by the Environmental Protection Act 1990(14) the definition of “waste” in section 30 of the Control of Pollution Act 1974(15) has effect as if the reference to the Explosives Act 1875 were a reference to these Regulations.

Customs and Excise Management Act 1979

16. In section 75(1) of the Customs and Excise Management Act 1979(16) (meaning of “explosive”), for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

Isle of Man Act 1979

17.—(1) Section 8(2) of the Isle of Man Act 1979(17) (removal of goods to the United Kingdom) is amended as follows.

- (2) In sub-paragraph (b), omit the final “or”;
- (3) At the end of sub-paragraph (c), insert “or”; and
- (4) After sub-paragraph (c) insert —
 - “(d) any explosives the importation of which into the United Kingdom is prohibited by regulation 24 of the Manufacture and Storage of Explosives Regulations 2005.”.

Roads (Scotland) Act 1984

18. In paragraph 7 of Schedule 9 to the Roads (Scotland) Act 1984(18) (minor and consequential amendments), omit sub-paragraph (2).

Environmental Protection Act 1990

19.—(1) The Environmental Protection Act 1990(19) shall be amended as follows.

(2) In section 75(2) (meaning of waste) as enacted, for “the Explosives Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

(3) In section 142(7) (powers to obtain information), for “the Explosive Substances Act 1875” substitute “the Manufacture and Storage of Explosives Regulations 2005”.

Merchant Shipping Act 1995

20. In Schedule 13 to the Merchant Shipping Act 1995(20) (consequential amendments), omit paragraph 5.

Criminal Procedure (Scotland) Act 1995

21. In Schedule 5 to the Criminal Procedure (Scotland) Act 1995(21), omit the entries for the forms of complaint relating to —

(14) 1990 c. 43. Section 30 of the Control of Pollution Act 1974 is prospectively repealed by Schedule 16 of the Environmental Protection Act 1990.

(15) 1974 c. 40.

(16) 1979 c. 2.

(17) 1979 c. 58.

(18) 1984 c. 54.

(19) 1990 c. 43.

(20) 1995 c. 21.

(21) 1995 c. 46.

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- (a) the Explosives Act 1875, section 5; and
- (b) the Explosives Act 1875, section 22 and section 3, subsection (1), Mode B, of the Order in Council dated 26th October 1896.