



Explosives Act 1875

1875 CHAPTER 17 38 and 39 Vict

PART I.—LAW RELATING TO GUNPOWDER

Modifications etc. (not altering text)

- C1** Power to grant exemption from provisions of Pt. I (except ss. 30–32) and Pt. II conferred by [S.I. 1979/1378, art. 2](#)

General Law as to Manufacture and Keeping of Gunpowder

4 Gunpowder to be manufactured only at factory lawfully existing or licensed under this Act.

The manufacture of gunpowder shall not, nor shall any process of such manufacture, be carried on except at a factory for gunpowder either lawfully existing or licensed for the same under this Act.

Provided that nothing in this section shall apply to the making of a small quantity of gunpowder for the purpose of chemical experiment and not for practical use or for sale.

If any person manufactures gunpowder or carries on any process of such manufacture at any place at which he is not allowed by this section so to do, he shall be deemed to manufacture gunpowder at an unauthorised place.

[^{F1}Where gunpowder is manufactured at an unauthorised place, the person so manufacturing shall be guilty of an offence.]

Textual Amendments

- F1** Words substituted by [S.I. 1974/1885, Sch. 2 para. 1](#)

Status: Point in time view as at 05/11/1993.

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

5 Gunpowder (except for private use) to be kept only in existing or new magazine or store, or in registered premises. E+W+S

Gunpowder shall not be kept at any place except as follows; that is to say,

- (1) Except in the factory (either lawfully existing or licensed for the same under this Act) in which it is manufactured; or
- (2) Except in a magazine or store for gunpowder either lawfully existing or licensed under this Act for keeping gunpowder, or
- (3) Except in premises registered under this Act for keeping gunpowder.

Provided that this section shall not apply—

- [^{F2}(1) To a person keeping gunpowder for his private use (within the meaning of the Control of Explosives Regulations 1991); or]
- (2) To the keeping of any gunpowder by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act [^{F3}and of any health and safety regulations (within the meaning of Part I of the Health and Safety at Work etc. Act 1974) which apply to that conveyance].

Any gunpowder kept in any place other than as above in this section mentioned shall be deemed to be kept in an unauthorised place.

[^{F4}Where any gunpowder is kept in an unauthorised place, the occupier of such place, and also the owner of, or other person guilty of keeping the gunpowder, shall each be guilty of an offence.]

Textual Amendments

- F2** S. 5 Proviso (1) substituted (E.W.S.)(1.11.1991) by S.I. 1991/1531, reg. 19, Sch. 4 Pt.1 (with reg. 19(6))
- F3** Words in s. 5 proviso (2) substituted (E.W.S.) by S.I. 1989/615, reg. 18
- F4** Words substituted by S.I. 1974/1885, Sch. 2 para. 2

5 Gunpowder (except for private use) to be kept only in existing or new magazine or store, or in registered premises. N.I.

Gunpowder shall not be kept at any place except as follows; that is to say,

- (1) Except in the factory (either lawfully existing or licensed for the same under this Act) in which it is manufactured; or
- (2) Except in a magazine or store for gunpowder either lawfully existing or licensed under this Act for keeping gunpowder, or
- (3) Except in premises registered under this Act for keeping gunpowder.

Provided that this section shall not apply—

- (1) To a person keeping for his private use and not for sale gunpowder to an amount not exceeding on the same premises [^{F73}15 kilograms] ; or

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

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

- (2) To the keeping of any gunpowder by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act with respect to the conveyance of gunpowder.

Any gunpowder kept in any place other than as above in this section mentioned shall be deemed to be kept in an unauthorised place.

[^{F74}Where any gunpowder is kept in an unauthorised place, the occupier of such place, and also the owner of, or other person guilty of keeping the gunpowder, shall each be guilty of an offence.]

Extent Information

- E1** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only.

Textual Amendments

- F73** Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)
F74 Words substituted by [S.I. 1974/1885, Sch. 2 para. 2](#)

Licensing of Factories and Magazines for Gunpowder

6 Application for license for new factory or magazine.

A new factory or magazine for gunpowder shall not be established except on the site and in the manner specified in a license for the same granted under this Act.

An applicant for such a license shall submit to [^{F5}the Health and Safety Executive] the draft of a license accompanied by a plan (drawn to scale) of the proposed factory or magazine, and the site thereof (which plan shall be deemed to form part of and to be in this Act included in the expression “the license”).

The draft license shall contain the terms which the applicant proposes to have inserted in the license, and shall specify such of the following matters as are applicable; namely,

- (a) The boundaries of the land forming the site of the factory or magazine and either any belt of land surrounding the site which is to be kept clear, and the buildings and works from which it is to be kept clear, or the distances to be maintained between the factory or magazine, or any part thereof, and other buildings and works; and
- (b) The situation, character, and construction of all the mounds, buildings, and works on or connected with the factory or magazine, and the distances thereof from each other; and
- (c) The nature of the processes to be carried on in the factory and in each part thereof, and the place at which each process of the manufacture, and each description of work connected with the factory or magazine, is to be carried on, and the places in the factory or magazine at which gunpowder and any ingredients of gunpowder, and any articles liable to spontaneous ignition, or inflammable or otherwise dangerous, are to be kept; and
- (d) The amount of gunpowder and of ingredients thereof wholly or partly mixed to be allowed at the same time in any building or machine or any process of the manufacture or within a limited distance from such building or machine,

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

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having regard to the situation and construction of such building, and to the distance thereof from any other building or any works; and

- (e) The situation, in the case of a factory, of each factory magazine, and in the case of another magazine, of each building forming part of such magazine in which gunpowder is to be kept, and the maximum amount of gunpowder to be kept in each factory magazine, and in each such building as aforesaid; and
- (f) The maximum number of persons to be employed in each building in the factory; and
- (g) Any special terms which the applicant may propose by reason of any special circumstances arising from the locality, the situation or construction of any buildings or works, or the nature of any process, or otherwise.

[^{F5}The Health and Safety Executive], after examination of the proposal, may reject the application altogether or may approve of the draft license, with or without modification or addition, and grant to the applicant permission to apply to the local authority for their assent to the establishment of the factory or magazine on the proposed site.

Textual Amendments

F5 Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**

Modifications etc. (not altering text)

- C2** S. 6 amended (N.I.) by **Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 24(1)**
- C3** S. 6 amended (N.I.)(temporarily until 15.6.1992 unless continued by Order) by **Northern Ireland (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), s. 59(1)** (with s. 69) (which Act was repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), **Sch. 7 Pt. I** (with s. 63(3)))
S. 6 amended (N.I.) (*temp.* from 25.8.1996) by 1996 c. 22, **ss. 50(1), 62(1)** (with s. 62(2))

7 Application for assent of local authority to site of new factory or magazine.

The local authority, upon application being made for their assent to the establishment of a new factory or magazine on the proposed site, shall cause notice to be published by the applicant in manner directed by this Act of the application and of the time and place at which they will be prepared to hear the applicant, and any persons objecting to such establishment who have not less than seven clear days before the day of hearing sent to the clerk of the local authority and to the applicant notice of their intention to appear and object, with their name, address and calling, and a short statement of the grounds of their objection.

[^{F6}Upon the hearing of the application, or any adjournment thereof, the local authority may dissent altogether from the establishment of such new factory or magazine on the proposed site, or assent thereto, either absolutely or on any conditions requiring additional restrictions or precautions.]

Where the site of the proposed factory or magazine is situate within or within [^{F7}1.6 kilometres] of the limits of the jurisdiction of any [^{F8}district council], or of any harbour authority, the applicant shall serve on such authority, if they are not the local authority, notice of the application and of the time and place of hearing fixed by the local authority.

The said notices shall be published and served by the applicant not less than one month before the hearing.

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

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

The local authority shall fix the time and place of hearing as soon as practicable after application made to them, and the time so fixed shall be as soon as practicable after the expiration of the said month from the publication and service of the notices by the applicant, and their final decision shall be given as soon as practicable after the expiration of the said month.

The place so fixed shall be situate within the jurisdiction of the local authority, or within a convenient distance of the limits of that jurisdiction.

The costs of any objections which the local authority may deem to be frivolous shall be ascertained by an order made by the local authority, and shall be a debt due from the objector to the applicant, of which such order shall be conclusive evidence.

Where the site of the proposed factory or magazine is situate partly within the jurisdiction of one local authority and partly within the jurisdiction of another, the assent of both local authorities shall be applied for in manner provided by this Act.

Textual Amendments

- F6** Paragraph repealed (N.I.) by [Prevention of Terrorism \(Temporary Provisions\) Act 1989 \(c. 4, SIF 39:2\)](#), s. 25(2), [Sch. 9 Pt. I](#)
- F7** Words substituted by [S.I. 1984/510](#), reg. 2, [Sch. 1](#)
- F8** Words substituted by virtue of [Local Government Act 1894 \(c. 73\)](#), s. 21(1) and [Local Government Act 1972 \(c. 70\)](#), s. 179(3)

8 Grant and confirmation of license.

If on the hearing of the application for the establishment of a factory or magazine the local authority assent thereto either absolutely or on conditions submitted to by the applicant, the applicant shall be entitled to the license applied for in accordance with the draft approved by [^{F9}the Health and Safety Executive] , with the addition (if the assent was on conditions) of the additional restrictions and precautions required by those conditions.

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[^{F9}The Health and Safety Executive] , when satisfied that the factory or magazine is sufficiently completed according to the license to justify the use thereof, shall confirm the license, but until so confirmed the license shall not come into force.

The land forming the site bounded as described in the license shall, with every mound, building, and work thereon for whatever purpose, be deemed, for the purposes of this Act, to be the factory or magazine referred to in the license.

Textual Amendments

- F9** Words substituted by virtue of [S.I. 1974/1885](#), [Sch. 2 para. 3](#)
- F10** Words repealed by [S.I. 1974/1885](#), [Sch. 1](#)

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

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

Regulation of Factories and Magazines for Gunpowder

9 Regulation of factories and magazines for gunpowder.

In every gunpowder factory and magazine—

- (1) The factory or magazine, or any part thereof, shall not be used for any purpose not in accordance with the license; and
- (2) The terms of the license shall be duly observed, and the manufacture or keeping or any process in or work connected with the manufacture or keeping of gunpowder shall not be carried on except in accordance with those terms; and
- (3) The factory or magazine and every part thereof shall be maintained in accordance with the license; and any material alteration in the factory or magazine by enlarging or adding to the site, or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, shall not be made except in pursuance of an amending license granted under this Act.

[^{F11}In the event of any breach (by any act or default) of this section in any factory or magazine, the occupier shall be guilty of an offence.]

The occupier of a factory shall not be deemed guilty of a breach of this section for using in a case of emergency, or temporarily, one building or part of a building in which any process of the manufacture is, under the terms of the license, carried on, for another process of the manufacture, if he do not carry on in such building or part more than one process at the same time, and if the quantity of gunpowder or ingredients thereof in such building or part do not exceed the quantity allowed to be therein, or any less quantity allowed to be in the building or part of a building in which such other process is usually carried on; and if upon such use being continued after the lapse of twenty-eight days from the first beginning of such use he send notice of such use to [^{F12}an inspector appointed by the Health and Safety Executive under section 19 of the ^{M1}Health and Safety at Work etc. Act 1974] , and the [^{F12}inspector so appointed] do not require the discontinuance of such use.

Textual Amendments

F11 Words substituted by [S.I. 1974/1885, Sch. 2 para. 4](#)

F12 Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 5](#)

Marginal Citations

M1 [1974 c. 37.](#)

10 General rules for factories and magazines.

In every gunpowder factory and magazine the following general rules shall be observed:

- (1) In a factory every factory magazine, and in any other magazine every building in which gunpowder is kept, shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder; and

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- (2) The interior of every building in which any process of the manufacture is carried on or in which gunpowder or any ingredients thereof, either mixed or partially mixed, are kept, or in the course of manufacture are liable to be (in this Act referred to as a danger building), and the benches, shelves, and fittings in such building (other than machinery), shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel in such manner, and the detaching of any grit, iron, steel, or similar substance in such manner, as to come into contact with the gunpowder or ingredients thereof in such building, and such interior, benches, shelves, and fittings shall, so far as is reasonably practicable, be kept free from grit and otherwise clean; and
- (3) Every factory magazine and expense magazine, in a factory, and every danger building in a magazine, shall have attached thereto a sufficient lightning conductor, unless, by reason of the construction by excavation or the position of such magazine or building, or otherwise, [^{F13}the Health and Safety Executive] considers a conductor unnecessary, and every danger building in a factory shall, if so required by [^{F13}the Health and Safety Executive] have attached thereto a sufficient lightning conductor; and
- (4) Charcoal, whether ground or otherwise, and oiled cotton, oiled rags, and oiled waste, and any articles whatever liable to spontaneous ignition, shall not be taken into any danger building, except for the purpose of immediate supply and work or immediate use in such building, and upon the cessation of such work or use shall be forthwith removed; and
- (5) Before repairs are done to or in any room in or other part of a danger building, that room or part shall, so far as practicable, be cleaned by the removal of all gunpowder, and wholly or partly mixed ingredients thereof, and the thorough washing out of such room or part; and such room or part of the building after being so cleaned shall not be deemed to be a danger building within the meaning of these rules until gunpowder or the wholly or partly mixed ingredients thereof are again taken into it; and
- (6) There shall be constantly kept affixed in every danger building, either outside or inside, in such manner as to be easily read, a statement of the quantities of gunpowder or ingredients allowed to be in the building, and a copy of these rules, and of any other part of this Act required by [^{F13}the Health and Safety Executive] to be affixed, and of such part of the license and special rules made under this Act as apply to the building; and with the addition in a factory of the name of the building, or words indicating the purpose for which it is used; and
- (7) All tools and implements used in any repairs to or in a danger building shall be made only of wood or copper or brass or some soft metal or material, or shall be covered with some safe and suitable material; and
- (8) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into any danger building of fire, lucifer matches, or any substance or article likely to cause explosion or fire, and for preventing the introduction of any iron, steel, or grit into any part of a danger building where it would be likely to come into contact with gunpowder or the wholly or partly mixed ingredients thereof; but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (9) No person shall smoke in any part of the factory or magazine, except in such part (if any) as may be allowed by the special rules; and

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(10) Any carriage, boat, or other receptacle in which gunpowder, or the wholly or partly mixed ingredients thereof, are conveyed from one building to another in a factory or magazine, or from any such building to any place outside of such factory or magazine, shall be constructed without any exposed iron or steel in the interior thereof, and shall contain only the gunpowder and ingredients, and shall be closed or otherwise properly covered over; and the gunpowder and ingredients shall be so conveyed with all due diligence, and with such precautions and in such manner as will sufficiently guard against any accidental ignition; and

[^{F14}(11) A person under the age of eighteen years shall not be employed in or enter any danger building except in the presence and under the supervision of some person of the age of twenty-one years or upwards, and a person under the age of sixteen years, shall not be employed in any such building except in some process which has been declared by an Order made by the Secretary of State to be a process which is not in itself dangerous and except in the presence and under the supervision of some person of the age of twenty-one years or upwards.]

(12) In a factory the ingredients in course of manufacture into gunpowder shall be removed with all due diligence from each working building so soon as the process connected with those ingredients which is carried on in such building is completed, and all finished gunpowder shall with all due diligence either be removed to a factory magazine, or sent away immediately from the factory, and such ingredients and gunpowder shall be loaded and unloaded with all due diligence; and

(13) In a factory all ingredients to be made or mixed into gunpowder shall, before being so made or mixed, be carefully sifted, for the purpose of removing therefrom, so far as practicable, all dangerous foreign matter.

The Secretary of State may, from time to time, by order, make, and when made rescind and alter, such modifications in the foregoing general rules as may appear to him to be necessary for adapting the same to floating magazines, and such modifications shall have effect as if they were contained in this section.

[^{F15}In the event of any breach (by any act or default) of the general rules in any factory or magazine, the occupier shall be guilty of an offence.]

Textual Amendments

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

F14 Rule (11) substituted by **Explosives Act 1923 (c. 17), s. 2(1)**

F15 Words substituted by S.I. 1974/1885, **Sch. 2 para. 6**

11 Special rules for regulation of workmen in factory or magazineb.

Every occupier of a gunpowder factory or magazine shall, with the sanction of [^{F16}the Health and Safety Executive] , make special rules for the regulation of the persons managing or employed in or about such factory or magazine, with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons and the safety of the public.

[^{F17}A person who contravenes any special rule made under this section shall be guilty of an offence.]

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

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

The occupier may, and if required by ^{F16}the Health and Safety Executive] shall, with the sanction of ^{F16}the Health and Safety Executive] , repeal, alter, or add to any special rules made in pursuance of this section.

If an occupier is required by ^{F16}the Health and Safety Executive] to make, repeal, alter, or add to any rules under this section, and fail within three months after such requisition to comply therewith to the satisfaction of ^{F16}the Health and Safety Executive] , ^{F16}the Health and Safety Executive] may make, repeal, alter, or add to the special rules, and anything so done by ^{F16}the Health and Safety Executive] shall have effect as if done by the occupier with the sanction of ^{F16}the Health and Safety Executive] .

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Textual Amendments

F16 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

F17 Words substituted by S.I. 1974/1885, Sch. 2 para. 7

F18 Words repealed by S.I. 1974/1885, Sch. 1

Supplemental as to Factories and Magazines for Gunpowder

12 Alteration of terms of license and enlargement of factory or magazine.

Where the occupier of any gunpowder factory or magazine desires that any alteration should be made in the terms of his license, or any material alteration made in the factory or magazine by enlarging or adding to the site or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, he may apply for an amending license.

If he satisfy ^{F19}the Health and Safety Executive] that the alteration may be properly permitted, having regard to the safety of the persons employed in the factory or magazine, and will not materially either increase the danger to the public from fire or explosion, or diminish the distance of any danger building in the factory or magazine from any building or work outside and in the neighbourhood of the factory or magazine, or increase the amount of gunpowder allowed to be kept in the factory magazine or in any building in the magazine, ^{F19}the Health and Safety Executive] may grant the amending license of ^{F19}its] own authority, but, save as aforesaid, the provisions of this Act with respect to the application for and grant of a new license shall apply to such amending license.

Textual Amendments

F19 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

13 Devolution and determination of license.

A gunpowder factory or magazine license shall not be avoided by any change in the occupier of the factory or magazine; but notice of the name, address, and calling of the new occupier shall be sent to ^{F20}the Health and Safety Executive] within three months after the change, and in default such new occupier shall be ^{F21}guilty of an offence].

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

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

A factory or magazine license shall be determined by a discontinuance of the business carried on in pursuance of any such license if such discontinuance continues for a period of two years or more, or if the factory or magazine is used for any purpose not authorised by the license.

Provided that if the occupier sends to [^{F20}the Health and Safety Executive] and publishes in manner directed by [^{F20}the Health and Safety Executive] , a notice to the effect that the right to the factory or magazine license is not intended to be surrendered, the license shall not be determined until after the expiration of five years after the first discontinuance of the business, whether the factory or magazine has or has not been used for any purpose not authorised by the license.

Textual Amendments

F20 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 3

F21 Words substituted by S.I. 1974/1885, Sch. 2 para. 8

Application of Act to existing Factories and Magazines for Gunpowder

14 Continuing certificate for existing factories and magazines.

A factory or magazine for gunpowder used at the time of the passing of this Act shall not be deemed to be a lawfully existing factory or magazine within the meaning of this Act unless the occupier thereof apply for and obtain in manner provided by this Act a certificate (in this Act referred to as a continuing certificate) in respect of such factory or magazine.

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The regulations in Part One of the First Schedule to this Act shall be deemed to form part of the terms of a continuing certificate for a factory.

The land forming the site bounded as described in the certificate shall, with every mound, building, and work thereon, for whatever purpose, be deemed, for the purpose of this Act, to be the factory or magazine referred to in the certificate.

^{F22}
...

For the purposes of this Act, a continuing certificate shall (save as otherwise expressly provided) be deemed to be a license, and the factory or magazine, as the case may be mentioned therein to be a factory or magazine licensed under this Act, and the provisions of this Act shall be construed accordingly.

Provided that—

- (1) It shall not be necessary in any case to apply for the assent of the local authority to an amending license for an alteration in the terms of such certificate, or for an alteration in the factory or magazine; and
- (2) Such factory or magazine, if the certificate is determined by the discontinuance of the business carried on therein, shall cease to be deemed an existing factory or magazine.

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

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

Textual Amendments

- F22** Words in s. 14 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. VII**.
F23 Words repealed by **Statute Law Revision Act 1898 (c. 22)**

Consumers Stores for Gunpowder Licensing and Regulation of Stores

15 Store license to be obtained from local authority.

Any person may apply for a license for a gunpowder store to the local authority at the time and place appointed by such authority, stating his name, address, and calling, the proposed site and construction of the store and the amount of gunpowder he proposes to store therein; and the local authority shall, as soon as practicable, if the proposed site, construction of the store, and amount of gunpowder are in accordance with the Order in Council herein—after mentioned, grant to the applicant, on payment of such fee, not exceeding [^{F24}that from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974], as may be fixed by that authority, the license applied for.

Textual Amendments

- F24** Words substituted (E.W.S.) by **S.I. 1987/52, reg. 2, Sch. 1**

Modifications etc. (not altering text)

- C4** S. 15 amended (N.I.) by **Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 24(2)**
C5 Power to amend s. 15 conferred by **Local Government Act 1966 (c. 42), s. 35(2), Sch. 3 Pt. II** and **Local Government (Scotland) Act 1966 (c. 51), s. 42(2), Sch. 4 Pt. II**
C6 S. 15 amended (N.I.) (temporarily until 15.6.1992 unless continued by Order) by **Northern Ireland (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), s. 59(2)** (with s. 69) (which Act was repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), **Sch. 7 Pt. I** (with s. 63(3)))
S. 15 amended (N.I.) (*temp.* from 25.8.1996) by 1996 c. 22, **ss. 50(2), 62(1)** (with s. 62(2))

16 Order in Council prescribing situation and construction of stores.

Her Majesty may from time to time by Order in Council made on the recommendation of the Secretary of State—

- (1) Regulate the construction and materials and fittings of gunpowder stores; and
- (2) Prescribe the buildings and works from which gunpowder stores are to be separated, and the distances by which they are to be separated; and
- (3) Prescribe the maximum amount of gunpowder, not exceeding [^{F25}2,000 kilograms], to be kept in stores, graduated according to their construction and situation and their distance from the said buildings and works.

Provided that an order under this section shall not require the removal of any building lawfully in use at the date of the making of such order.

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

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

Textual Amendments

F25 Words substituted by S.I. 1984/510, reg. 2, Sch. 1

17 General rules for stores.

In every gunpowder store the following general rules shall be observed; that is to say,

- (1) The provisions of an Order in Council relating to stores, so far as they apply to such store, shall be duly observed:
 - (2) There shall not be at the same time in the store an amount of gunpowder exceeding the amount specified in the license; and
 - (3) The store shall be used only for the keeping of gunpowder, and receptacles for or tools or implements for work connected with the keeping of such gunpowder; and
 - (4) The interior of the store, and the benches, shelves, and fittings therein, shall be so constructed or so lined or covered as to prevent the exposure of any iron or steel and the detaching of any grit, iron, steel, or similar substance, in such manner as to come into contact with the gunpowder, and such interior, benches, shelves, and fittings shall, so far as is reasonably practicable, be kept free from grit, and otherwise clean; and
 - (5) The store shall have attached thereto a sufficient lightning conductor, unless it is made by excavation or is licensed for less than [^{F26}500 kilograms] of gunpowder; and
 - (6) Before repairs are done to or in any part of a store, the store shall, so far as practicable, be cleaned by the removal of all gunpowder and the thorough washing out of the store; and after such cleaning, these rules shall cease to apply to the store until gunpowder is again taken there; and
 - (7) Except after such cleaning, all tools and implements used in or in any repairs to the store shall be made only of wood, copper, or brass, or some soft metal or material, or shall be covered with some safe and suitable material; and
 - (8) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into the store of fire, lucifer matches, or any substance or article likely to cause explosion or fire, or any iron, steel, or grit; but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and
 - (9) No person shall smoke in any part of the store; and
 - [^{F27}(10) A person under the age of eighteen years shall not be employed in or enter the store except in the presence and under the supervision of some person of the age of twenty-one years or upwards.]
- [^{F28}In the event of any breach (by any act or default) of the general rules in any store, the occupier shall be guilty of an offence.]

Textual Amendments

F26 Words substituted by S.I. 1984/510, reg. 2, Sch. 1

F27 Rule (10) substituted by Explosives Act 1923 (c. 17), s. 2(2)

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

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

F28 Words substituted by [S.I. 1974/1885, Sch. 2 para. 9](#)

18 Non-transferability, renewal, and forms of store licenses.

A store license shall be valid only for the person named in it, and shall, annually, unless the circumstances have so changed that the grant of a new license would not be authorised by this Act, on application by post or otherwise, and payment of such fee, not exceeding [^{F29}that from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974], as may be from time to time fixed by the local authority, be renewed by that authority, by endorsement or otherwise, for that year, and unless so renewed shall expire.

Store licenses shall be in the form from time to time directed by [^{F30}the Health and Safety Executive].

Textual Amendments

F29 Words substituted (E.W.S.) by [S.I. 1987/52, reg. 2, Sch. 1](#)

F30 Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 3](#)

Modifications etc. (not altering text)

C7 Power to amend s. 18 conferred by [Local Government Act 1966 \(c. 42\), s. 35\(2\), Sch. 3 Pt. II](#) and [Local Government \(Scotland\) Act 1966 \(c. 51\), s. 42\(2\), Sch. 4 Pt. II](#)

C8 S. 18 as applied by s. 49 modified by [Fireworks Act 1951 \(c. 58\), s. 7\(2\)](#)

19 Special rules for regulation of workmen in stores.

Every occupier of a gunpowder store may, with the sanction of [^{F31}the Health and Safety Executive], make, and when made, may, with the like sanction, repeal, alter, or add to, special rules for the regulation of the persons managing or employed in or about such store, with a view to secure the observance of this Act therein, and the safety and proper discipline of the said persons and the safety of the public.

[^{F32}A person who contravenes any special rule made under this section shall be guilty of an offence.]

Textual Amendments

F31 Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 3](#)

F32 Words substituted by [S.I. 1974/1885, Sch. 2 para. 10](#)

Application of Act to existing Stores for Gunpowder

20 Definition of and continuing certificate for existing stores which are to be subject to this Act.

Any magazine established without a license from a local authority in pursuance of the ^{M2}Gunpowder Act 1860, or of any enactment repealed by that Act, for the use of any mine, quarry, colliery, or factory of safety fuzes, and in use at the passing of this Act, is in this Act referred to as an existing gunpowder store.

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

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

An existing gunpowder store shall not require a continuing certificate as a magazine from the Secretary of State, but shall require a continuing certificate from the local authority, and if such certificate is not applied for and obtained in manner provided by this Act, shall not be deemed to be a lawfully existing store.

F33 . . .

F33 . . .

The regulations in Part Two of the First Schedule to this Act shall apply to every store to which a continuing certificate is granted, as if they were contained in an Order in Council under this Act relating to stores.

For the purposes of this Act a continuing certificate for a store shall, save as otherwise expressly provided, be deemed to be a license, and the store a store licensed under this Act, and the provisions of this Act shall be construed accordingly.

Provided that—

- (1) The store shall not be enlarged, or added to, or so altered as to be of a less secure construction, and any breach of this proviso shall be deemed to be a breach of the general rules relating to stores; and
- (2) The continuing certificate shall not be limited in duration, but if the business carried on in the store is discontinued, and either such discontinuance continues for a period of twelve months or more, or the store is used for another purpose, such store shall cease to be deemed an existing gunpowder store.

Nothing in this section shall prevent the obtaining for any existing gunpowder store of a license from the local authority under this Act, as in the case of a new store, and a store for which such license is obtained shall, whether a continuing certificate has or has not been previously obtained for the same, cease to be deemed an existing gunpowder store.

..... F34

<p>Textual Amendments</p> <p>F33 Words in s. 20 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. VII.</p> <p>F34 Words repealed by Statute Law Revision Act 1898 (c. 22)</p> <hr/> <p>Marginal Citations</p> <p>M2 1860 c. 139.</p>

Retail Dealing with Gunpowder Registration and Regulation of Registered Premises

21 Registration of premises with local authority.

A person desirous of registering with the local authority any premises for the keeping of gunpowder shall register his name and calling, and the said premises (in this Act referred to as his registered premises) in such manner and on payment of such fee, not exceeding [F35 that from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974] , as may be directed by the local authority.

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

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

Such registration shall be valid only for the person registered, and shall be annually renewed by sending by post or otherwise notice of such renewal to the local authority, together with such fee, not exceeding [F35] that from time to time fixed by or determined under those regulations.] , as may be fixed by that authority.

Textual Amendments

F35 Words beginning “that from time to time” substituted (E.W.S.) for “£6” by S.I. 1987/52, reg. 2, Sch. 1

Modifications etc. (not altering text)

C9 S. 21 amended (N.I.) by Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 24(2)

C10 Power to amend s. 21 conferred by Local Government Act 1966 (c. 42), s. 35(2), Sch. 3 Pt. II and Local Government (Scotland) Act 1966 (c. 51), s. 42(2), Sch. 4 Pt. II

C11 S. 21 amended (N.I.) (temporarily until 15.6.1992 unless continued by Order) by Northern Ireland (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), s. 59(2) (with s. 69) (which Act was repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), Sch. 7 Pt. I (with s. 63(3)))
S. 21 amended (N.I.) (*temp.* from 25.8.1996) by 1996 c. 22, ss. 50(2), 62(1) (with s. 62(2))

22 General rules for registered premises.

The following general rules shall be observed with respect to registered premises:

- (1) The gunpowder shall be kept in a house or building, or in a fire-proof safe, such safe, if not within a house or building, to be at a safe distance from any [F36]highway, street, public thoroughfare|[F36]road] , or public place; and
- (2) The amount of gunpowder on the same registered premises shall not—
 - (a) If it is kept in a substantially constructed building exclusively appropriated for the purpose and detached from a dwelling-house, or in a fire-proof safe outside a dwelling-house, and detached therefrom, and at a safe distance from any [F36]highway, street, public thoroughfare|[F36]road] , or public place, exceed [F37]100 kilograms] ; and
 - (b) If it is kept inside a dwelling-house, or in any building other than as last aforesaid, exceed [F38]25 kilograms] , unless it is kept in a fire-proof safe within such house or building, in which case the amount shall not exceed [F38]50 Kilograms] ; and
- (3) An article or substance of an explosive or highly inflammable nature shall not be kept in a fire-proof safe with the gunpowder, and in every case shall be kept at a safe distance from the gunpowder or the safe containing the same; and
- (4) Neither the building exclusively appropriated for the purpose of keeping the gunpowder nor the fire-proof safe shall have any exposed iron or steel in the interior thereof; and
- (5) All gunpowder exceeding [F39]500 grams] in amount shall be kept in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping.

[F40]In the event of any breach (by any act or default) of such general rules in any registered premises, the occupier shall be guilty of an offence.]

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

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

Textual Amendments

- F36** Word “road” substituted (S.) for “highway, street, public thoroughfare” by [Roads \(Scotland\) Act 1984](#) (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 7(2)**
- F37** Words substituted by [S.I. 1984/510](#), reg. 2, **Sch. 1**
- F38** Words substituted by [S.I. 1984/510](#), reg. 2, **Sch. 1**
- F39** Words substituted by [S.I. 1984/510](#), reg. 2, **Sch. 1**
- F40** Words substituted by [S.I. 1974/1885](#), **Sch. 2 para. 11**

Modifications etc. (not altering text)

- C12** S. 22 explained as to meaning of public place (S.) by [Countryside \(Scotland\) Act 1967](#) (c. 86), s. **27(6)**

Supplemental Provisions

23 Precautions against fire or explosion to be taken by occupier.

The occupier of every factory, magazine, store, and registered premises for gunpowder, and every person employed in or about the same, shall take all due precaution for the prevention of accidents by fire or explosion in the same, and for preventing unauthorised persons having access to the factory magazine, or store, or to the gunpowder therein or in the registered premises, and shall abstain from any act whatever which tends to cause fire or explosion and is not reasonably necessary for the purpose of the work in such factory, magazine, store, or premises.

Any breach (by any act or default) of this section in any factory, magazine, store, or registered premises shall be deemed to be a breach of the general rules applying thereto.

Modifications etc. (not altering text)

- C13** S. 23 extended by [Explosives Act 1923](#) (c. 17), s. **1**

24 Explanation as to quantities of gunpowder allowed in buildings.

Where any provision of this Act limits the quantity of gunpowder or ingredients of gunpowder to be allowed in any building at any one time, all gunpowder and ingredients within the radius of [^{F41}twenty metres] from the building and in course either of removal from the building, or of removal to the building for the supply and work thereof, shall be deemed to be in the building:

Provided that, if while the gunpowder or ingredients so in course of removal are within the radius, every machine and manufacturing process in the building is wholly stopped, there may, in addition to the quantity so allowed as aforesaid to be in the building, be within the radius a further quantity of gunpowder and ingredients so in course of removal as aforesaid, not exceeding the quantity specified in that behalf in the license, or in the case of an existing building in a lawfully existing factory for gunpowder [^{F41}500 kilograms] , or any less quantity so allowed as aforesaid to be in the building.

Where any provision of this Act limits the quantity of gunpowder or ingredients of gunpowder to be allowed in any machine at any one time, but does not limit the

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quantity to be in the building containing such machine, the foregoing provisions of this section shall apply, so far as circumstances admit, as if such machine were a building.

Where the quantity allowed to be in any building is limited to what is required for the immediate supply and work of such building, or by words not specifying the exact quantity, [^{F42}an inspector appointed by the Health and Safety Executive under section 19 of the ^{M3}Health and Safety at Work etc. Act 1974] who considers that the quantity in any such building is in excess, may, after hearing the explanation of the occupier, require the occupier to diminish such quantity to the maximum named in the requisition.

F43

The exact quantity to be allowed in such building shall be determined by the requisition, [^{F44}or if the matter is referred to arbitration, by the award].

Textual Amendments

- F41 Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)
- F42 Words substituted by virtue of [S.I. 1974/1885, Sch. 2 para. 5](#)
- F43 Words repealed by [S.I. 1974/1885, Sch. 1](#)
- F44 Words in s. 24 repealed (E.W.S.) (5.11.1993) by [1993 c. 50, s. 1\(1\), Sch. 1 Pt.VII.](#)

Marginal Citations

- M3 [1974 c. 37.](#)

25 F45

Textual Amendments

- F45 Ss. 25, 37 repealed by [S.I. 1974/1885, Sch. 1](#)

[26 ^{F46} Fees for licenses.

[^{F47}There shall be payable in respect of licenses and continuing certificates granted by the Secretary of State such fees as may be from time to time fixed by him with the consent of the Treasury, not exceeding the fees in the Third Schedule to this Act, and if no fee is fixed the fees bmentioned in the said schedule.]]

Such fees shall be taken and paid into the receipt of Her Majesty’s Exchequer in such manner as the Treasury may from time to time direct, and shall be carried to the Consolidated Fund.

F48

When the local authority do not fix any fee which they are authorised by this Act to fix, the fee payable shall be the [^{F49}maximum fee which such authority are authorised to fix][^{F49}that from time to time fixed by or determined under regulations made in accordance with section 43(2) of the Health and Safety at Work etc. Act 1974].

[^{F50}The fees payable to the local authority in respect of any license, certificate, or otherwise in pursuance of this Act, shall, where the clerk of the local authority is not

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wholly paid by fees, be carried to the credit of the local rate, or otherwise disposed of as such local authority may direct, and where such clerk is wholly paid by fees, shall, unless the local authority otherwise direct, be paid to such clerk.]

Textual Amendments

- F46** Words repealed except insofar as applying to Northern Ireland by S.I. 1983/1450, **reg. 3**
- F47** Words repealed so far as relates to fees payable in respect of licences for importation of explosives by Revenue Act 1909 (c. 43), **Sch.**
- F48** Words repealed by S.I. 1974/1885, **Sch. 1**
- F49** Words beginning “that from time to time” substituted (E.W.S.) for words beginning “the maximum fee” by S.I. 1987/52, **reg. 22, Sch. 1**
- F50** Words repealed (E.W.) by Local Government Act 1972 (c. 70), **Sch. 30**

Modifications etc. (not altering text)

- C14** S. 26 applied with modifications by S.I. 1974/1885, **Sch. 2 para. 12**

27 Adjoining places occupied together to be one place.

For the purposes of the provisions of this Act with respect to the manufacture and keeping of gunpowder, all buildings and places adjoining each other and occupied together shall be deemed to be the same factory, magazine, store, or premises, and shall accordingly be included in one license or one registration.

28 Register of store licenses and registered premises to be kept by local authority.

The local authority shall cause registers of all store licenses granted by and of all premises registered with them under this Act to be kept in such form and with such particulars as they may direct.

The local authority shall, when so required by [^{F51}the Health and Safety Executive], send to [^{F51}it], within the time fixed by such requisition, a copy of such register or any part thereof, and in default the clerk of such authority, and also the authority if they are in fault, shall be liable to a penalty not exceeding one pound for every day during which such default continues.

.....
F52

Textual Amendments

- F51** Words substituted by virtue of S.I. 1974/1885, **Sch. 2 para. 3**
- F52** Words repealed by S.I. 1974/1885, **Sch. 1**

29 Provision in case of death, &c. of occupier of store or registered premises.

If the occupier of a store or registered premises dies or becomes bankrupt, or has his affairs liquidated by arrangement, or becomes mentally incapable or otherwise disabled, the person carrying on the business of such occupier shall not be liable to any penalty . . . ^{F53} for carrying on the business and acting under the license or registration during such reasonable time as may be necessary to allow him to obtain a store license

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from or to register with the local authority, so that he otherwise conform with the provisions of this Act.

Textual Amendments

F53 Words repealed by [S.I. 1974/1885, Sch. 1](#)

Sale of Gunpowder

30 Restriction on sale of gunpowder in highways, &c.

Gunpowder shall not be hawked, sold, or exposed for sale upon any [^{F54}highway, street, public thoroughfare, or][^{F54}road or in any] public place.

If any gunpowder is hawked, sold, or exposed for sale in contravention of this section—

- (1) The person hawking, selling, or exposing for sale the same, shall be liable to a penalty not exceeding [^{F55}£2] ; and
- (2) All or any part of the gunpowder which is so hawked or exposed for sale, or is found in the possession of any person convicted under this section, may be forfeited.

Textual Amendments

F54 Words “road or in any” substituted (S.) for words “highway, street, public thoroughfare, or” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 156\(1\), Sch. 9 para. 7\(3\)](#)

F55 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

31 Penalty for sale of gunpowder to children.

Gunpowder shall not be sold to [^{F56}any person apparently under the age of sixteen] years; and any person selling gunpowder in contravention of this section [^{F57}shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale]

Textual Amendments

F56 Words substituted by [Explosives \(Age of Purchase etc.\) Act 1976 \(c. 19\), s. 10\(1\)](#)

F57 Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\), ss. 41\(2\), 47\(1\)\(2\), 48, Sch. 4 para. 1](#)

32 Sale of gunpowder to be in closed packages labelled.

All gunpowder exceeding [^{F58}500 grams] in weight, when publicly exposed for sale or sold, shall be in a substantial case, bag, canister, or other receptacle made and closed so as to prevent the gunpowder from escaping, and (except when the same is sold to any person employed by or on the property occupied by the vendor for immediate use in the service of the vendor or on such property,) the outermost receptacle containing

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such gunpowder shall have affixed the word “gunpowder” in conspicuous characters by means of a brand or securely attached label, or other mark.

If any gunpowder is sold or exposed for sale in contravention of this section—

- (1) The person selling or exposing for sale the same shall be liable to a penalty not exceeding [^{F59}£2] ; and
- (2) All or any part of the gunpowder so exposed for sale may be forfeited.

Textual Amendments

F58 Words substituted by [S.I. 1984/510, reg. 2, Sch. 1](#)

F59 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

Conveyance of Gunpowder

[^{F60}33] **General rules as to packing of gunpowder for conveyance.**

The following general rules shall be observed with respect to the packing of gunpowder for conveyance:

...
^{F61}

[^{F62}In the event of any breach (by any act or default) of any general rule in this section, the person guilty of such breach shall be guilty of an offence.]]

The Secretary of State may from time to time make, and when made, repeal, alter, and add to, rules for the purpose of rescinding, altering, or adding to the general rules contained in this section, and the rules so made by the Secretary of State shall have the same effect as if they were enacted in this section.

Textual Amendments

F60 S. 33 repealed (E.W.S.) (1.3.1992) by [S.I. 1991/2097, reg. 14\(2\)](#)

F61 Rules rescinded by S.R. & O. 1904/1221 (1904, p. 137)

F62 Words substituted by [S.I. 1974/1885, Sch. 2 para. 13](#)

[^{F63}34] **Byelaws by harbour authority as to conveyance, loading, &c. of gunpowder.**

Every harbour authority shall, with the sanction of the [^{F64}Secretary of State] , make byelaws for regulating the conveyance, loading and unloading of gunpowder within the jurisdiction of the said authority and in particular for declaring or regulating all or any of the following matters within the jurisdiction of the said authority; namely,

- (1) Determining the notice to be given by ships and boats conveying, loading, or unloading gunpowder as merchandise within the said jurisdiction; and
- (2) Regulating the navigation and place of mooring of such ships and boats; and
- (3) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping gunpowder on board any such ship or boat, and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder; and

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- (4) Regulating the description, construction, fitting up, and licensing of the ships, boats, or carriages to be used for the conveyance of gunpowder, and the licensing and dress of the persons having charge thereof; and
- (5) Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive or any articles or substances, or in passenger ships, boats, trains, or carriages; and
- (6) Prohibiting in cases where the loading or unloading of gunpowder within the jurisdiction of such authority appears to be specially dangerous to the public such loading or unloading, and fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one ship, boat, or carriage; and
- (7) Regulating the mode of and the precautions to be observed in conveying any gunpowder, and in the loading or unloading any ship, boat, or carriage conveying gunpowder as merchandise, and the time during which gunpowder may be kept during such conveyance, loading or unloading; and
- (8) Fixing the times at which lights or fires are to be allowed or not allowed on board such ships or boats, as before mentioned, or at which a constable or officer of the harbour authority is to be on board them; and
- (9) Providing for the publication and supply of copies of the byelaws; and
- (10) Enforcing the observance of this Act both by their own servants and agents and also by other persons when within the said jurisdiction; and
- (11) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

The penalties to be annexed to any breach or attempt to commit any breach of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first or second or other subsequent offence, that is to say, pecuniary penalties not exceeding [^{F65}£100] for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found in the ship, boat, or carriage in respect of which, the breach of byelaw has taken place.

In the event of any breach of a byelaw under this section in the case of any ship, boat, carriage, or gunpowder, whether there has or has not been any conviction for such breach, it shall be lawful for the harbour-master, or other officer named in the byelaws, or any person acting under the orders of the harbour authority, to cause such ship, boat, carriage, or gunpowder, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the byelaws; and all expenses incurred in such removal may be recovered in the same manner as a penalty under this section; and any person resisting such harbour-master or officer or other person in such removal shall be liable to the same penalties as a person is liable to for obstructing the harbour-master in the execution of his duty.

On any part of the coast of the United Kingdom or in any tidal water for which there is no harbour authority, the [^{F64}Secretary of State] may, if [^{F64}he thinks] it expedient, make byelaws under this section for that part or water as if it were a harbour and [^{F64}he] were the harbour authority, and such byelaws shall be deemed to have been made by a harbour authority with the sanction of the [^{F64}Secretary of State] ; and [^{F64}he] may by such byelaws define the area within which such byelaws are to be observed, and the authorities and officers by whom such byelaws are to be enforced and carried into effect within such area; and every such authority and officer shall for the purposes of this Act, other than making byelaws or assenting to a site for a new factory or

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magazine, have the same power within the said area as a harbour authority and an officer of a harbour authority have respectively under this Act in a harbour.]

Textual Amendments

- F63** S. 34 repealed (E.W.S.) by [S.I. 1987/37](#), [reg. 47\(1\)\(a\)](#)
- F64** 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)
- F65** Words substituted by [Criminal Justice Act 1967 \(c. 80\)](#), s. 92, [Sch. 3 Pt. II](#)

Modifications etc. (not altering text)

- C15** S. 34 amended by [Explosives Act 1923 \(c. 17\)](#), s. 4

35 Byelaws by railway and canal company as to conveyance, loading, &c. of gunpowder.

Every railway company and every canal company over whose railway or canal any gunpowder is carried, or intended to be carried, shall, with the sanction of the [^{F66}Secretary of State], make byelaws for regulating the conveyance, loading, and unloading of such gunpowder on the railway or canal of the company making the byelaws, and in particular for declaring and regulating all or any of the following matters in the case of such railway or canal; that is to say,

- (1) Determining the notice to be given of the intention to send gunpowder for conveyance as merchandise on the railway or canal; and
- (2) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping gunpowder for conveyance and of giving notice by brands, labels, or otherwise of the nature of the package containing the gunpowder; and
- (3) Regulating the description and construction of carriages, ships, or boats to be used in the conveyance of gunpowder; and
- (4) Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger trains, carriages, ships, or boats; and
- (5) Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time, or in one carriage, ship, or boat; and
- (6) Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages, ships, and boats used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading, and unloading; and
- (7) Providing for the publication and supply of copies of the byelaws; and
- (8) Enforcing the observance of this Act both by their servants and agents and also by other persons when on the canal or railway of such company; and
- (9) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

Such byelaws, when confirmed by the [^{F66}Secretary of State], shall apply to the railway, canal, agents, and servants of the company making the same, and to the

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persons using such railway or canal, or the premises connected therewith and occupied by or under the control of such company.

The penalties to be annexed to any breach or attempt to commit any breach of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding [^{F67}£100] for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or being in the carriage, ship, or boat or train of carriages, ships, or boats in respect of which, the breach of byelaw has taken place.

Textual Amendments

- F66** 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)
- F67** Words substituted by [Criminal Justice Act 1967 \(c. 80\)](#), s. 92, [Sch. 3 Pt. II](#)

Modifications etc. (not altering text)

- C16** [S. 35](#) excluded (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. [71\(3\)\(a\)](#), Sch. 6 para. (1)
- C17** [S. 35](#) modified (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. [71\(3\)\(a\)](#), Sch. 6 para. 1(4)

[^{F68}36] **Byelaws as to wharves in which gunpowder is loaded or unloaded.**

The occupier of every wharf or dock on or in which gunpowder is loaded or unloaded (if such loading or unloading is not otherwise subject to any byelaws under this Act) may, and if so required by the Secretary of State shall, from time to time, with the sanction of the Secretary of State, make byelaws for regulating the loading and unloading of gunpowder on or in such wharf or dock, and in particular for declaring or regulating all or any of the matters which can be declared or regulated in the case of any wharf or dock within the jurisdiction of a harbour authority by byelaws made by such authority in pursuance of this Act.

The penalties to be annexed to any breach, or attempt to commit any breach, of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first or second or other subsequent offence, that is to say, pecuniary penalties not exceeding [^{F69}£100] for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the gunpowder in respect of which, or found on the wharf or in the dock or part of the wharf or dock in respect of which, the breach of byelaw has taken place.

Any byelaws made in pursuance of this section may, and if required by the Secretary of State shall, be rescinded, altered, or added to by byelaws made by the occupier, with the sanction of the Secretary of State.

If an occupier is required by the Secretary of State to make byelaws under this section for any matter, and fail within three months after such requisition to comply therewith

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to the satisfaction of the Secretary of State, the Secretary of State may make such byelaws, which shall have effect as if made by the occupier with the sanction of the Secretary of State.

Where by reason of a wharf being a public wharf or otherwise, there is no occupier thereof, or the occupier thereof is unknown, the Secretary of State may make byelaws with respect to such wharf in like manner as if the occupier had failed to comply with his requisition: Provided that where such wharf abuts on any harbour, canal, or railway, the harbour authority or canal or railway company shall have the same power, and, if so required by the Secretary of State, shall be under the same obligation to make byelaws under this section for such wharf as if they were the occupiers thereof.]

Textual Amendments

- F68** S. 36 repealed (E.W.S.) (only in so far as that section applies within harbours and harbour areas) by S.I. 1987/37, reg. 47(1)(a)
- F69** Words substituted by Criminal Justice Act 1967 (c. 80), s. 92, Sch. 3 Pt. II

37^{F70}

Textual Amendments

- F70** Ss. 25, 37 repealed by S.I. 1974/1885, Sch. 1

38 Confirmation and publication of byelaws.

Any recommendation to Her Majesty in Council, any general rules with respect to packing, and any byelaws which is or are proposed to be made under this Act by [^{F71}the Secretary of State] shall, before being so made, be published in such manner as the Secretary of State . . . ^{F72}, as the case may be, may direct as being in his . . . ^{F72} opinion sufficient for giving information thereof to all local authorities, corporations, and persons interested.

The byelaws framed by any railway company, canal company, or harbour authority under this Act shall before being sanctioned by the [^{F71}Secretary of State] , be published in such manner as may be directed by the [^{F71}Secretary of State] , with a notice of the intention of such company or authority to apply for the confirmation thereof, and may be sanctioned by the [^{F71}Secretary of State] with or without any omission, addition, or alteration, or may be disallowed.

Every such byelaw may be from time to time added to, altered or rescinded by a byelaw made in like manner and with the like sanction as the original byelaw.

The Secretary of State . . . ^{F72} shall receive and consider any objections or suggestions made by any local authority, corporation, or persons interested with respect to any recommendation, general rules, or byelaws published in pusuance of this section, and may, if it seem fit, amend such recommendation, general rules, or byelaws with a view of meeting such objections or suggestions without again publishing the same.

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Textual Amendments

- F71** 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)
- F72** Words omitted 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)

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