



Explosives Act 1875

1875 CHAPTER 17 38 and 39 Vict

PART III.—ADMINISTRATION OF LAW

General Power of Search

73^{F1}

Textual Amendments

F1 Ss. 73, 75 repealed by S.I. 1974/1885, reg. 2(a) Sch. 1, but by virtue of amendments to that S.I. by S.I. 1974/2166, reg. 2, s. 73 was saved in so far as relating to the powers of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 [^{F2}inspector appointed by the Health and Safety Executive under section 19 of the ^{M1}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 danger, and he is [^{F2}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 [^{F2}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

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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 [^{F2}an inspector appointed by the Health and Safety Executive under section 19 of the ^{M2}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.

[^{F3}In this section, any reference to an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) is to be read, in relation to anything found on a relevant nuclear site, as a reference to an inspector appointed by the Office for Nuclear Regulation under that section. For this purpose a relevant nuclear site is one in relation to which the Office for Nuclear Regulation has responsibility for the enforcement of any of the relevant statutory provisions (within the meaning of Part 1 of the 1974 Act) by virtue of section 18(1A) or (2) of the 1974 Act.]

Textual Amendments

F2 Words substituted by virtue of S.I. 1974/1885, Sch. 2 para. 5

Marginal Citations

M1 1974 c. 37.

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M2 1974 c. 37.

75 **F4**

Textual Amendments

F4 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 **F5** ... **F6**

Textual Amendments

F5 S. 76 repealed (N.I.) (7.8.2009) by The Manufacture and Storage of Explosives (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/248), regs. 1, 3
F6 S. 76 repealed by S.I. 1974/1885, **Sch. 1**

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