



Explosives Act 1875

1875 CHAPTER 17

PART IV

SUPPLEMENTAL PROVISIONS, LEGAL PROCEEDINGS, EXEMPTIONS, AND DEFINITIONS

Application of Act to Scotland

This Act shall apply to Scotland, with the following modifications ; that is to say,

109 Definitions

In this Act with respect to Scotland—

- (1) The expression " borough " means any royal burgh, and any burgh returning or contributing to return a member to Parliament:
- (2) The expression " a master of one of the superior courts " means the auditor of the Court of Session :
- (3) The expression " umpire " means oversman :
- (4) The expression " attending before a court of record " means attending on citation the Court of Justiciary :
- (5) The expression " stipendiary magistrate " means a sheriff or sheriff substitute:
- (6) The expression " defendant " means defender and includes respondent:
- (7) The expression " chief officer of police " means the chief constable, superintendent of police, or other officer, by whatever name called, having the chief command of the police in any district maintaining a separate police force:
- (8) The expression " chairman of quarter sessions " means the sheriff of the county:
- (9) The expression " misdemeanour " means a crime and offence :

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- (10) The expression "the court of summary jurisdiction" means the sheriff of the county or any one of his substitutes :
- (11) This Act shall be read and construed as if for the expression " The Lands Clauses Consolidation Act, 1845," where-ever it occurs therein, the expression " The Lands Clauses Consolidation (Scotland) Act, 1845," were substituted.

110 Local authority

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

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

111 Expenses of local authority

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

- (a) In any borough the police rate or assessment; and
- (b) In any harbour as aforesaid any moneys, fund, or rate applicable or leviable by the harbour authority for any harbour purpose; and
- (c) In any place other than a borough or harbour as aforesaid the county general assessment.

The rates or assessments in this sub-section mentioned, or any increase of any such rate or assessment, may, notwithstanding any limitation in any Act, be levied for the purposes of this Act.

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

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

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

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

In Scotland, every local authority under this Act shall have and may exercise the same powers for the purchase and taking of lands otherwise than by agreement, for the

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purpose of erecting a gunpowder magazine thereon, that any local authority under "The Public Health (Scotland) Act, 1867," have and may exercise under the provisions of section ninety of the said last-mentioned Act.

114 Provision for making and enforcing byelaws, &c

In Scotland, the following provisions shall have effect:

- (a) Where an obligation is laid by this Act on any harbour authority, company, or local authority to make or enforce any byelaws or to grant any license or to do anything, the Court of Session may, upon summary application by any corporation, harbour authority, or local authority, or party interested, compel such harbour authority, company, or local authority to discharge such obligation:
- (b) Every offence under this Act shall be prosecuted, every penalty recovered, and every forfeiture or order made at the instance of the Lord Advocate or of the procurator fiscal of the sheriff court:
- (c) The proceedings may be on indictment in the Court of Justiciary in Edinburgh or on circuit, or in the sheriff court, or may be taken summarily in the sheriff court under the provisions of the Summary Procedure Act, 1864, as the Lord Advocate shall direct:
- (d) All costs and moneys directed to be recovered as penalties may be recovered in the sheriff court at the instance of the procurator fiscal of that court, under the provisions of the Summary Procedure Act, 1864:
- (e) In Scotland, all penalties imposed in pursuance of this Act shall be paid to the clerk of the court imposing them, and shall by him be accounted for and paid to the Queen's and Lord Treasurer's Remembrancer, and be carried to the Consolidated Fund; and the proceeds of any sales of explosives or of the ingredients of explosives, or of the receptacles of explosives or their ingredients, or of any ship, boat, or carriage, forfeited and directed to be sold, or directed to be sold and disposed of as if the same were forfeited under this Act, shall be paid, accounted for, and applied in like manner as penalties under this Act:
- (f) In Scotland, every person found liable in any penalty or costs or to pay any money directed by this Act to be recovered as a penalty, shall be liable, in default of immediate payment, to imprisonment for a term not exceeding six months, or until such penalty, costs, or money shall be sooner paid.

115 Board of Trade empowered to make byelaws for the lower estuary of the Clyde : Secretary of State to define the authority for enforcing such byelaws

Whereas upon that part of the estuary of the Clyde which lies below the jurisdiction of the Trustees of the Clyde Navigation (and which, part is in this section referred to as the lower estuary of the Clyde) doubts have arisen as to the limits of the several harbour authorities on that estuary, be it enacted, the Board of Trade may, if they think it expedient, make byelaws under this Act for the lower estuary of the Clyde as if it were a harbour and they were the harbour authority, and such byelaws shall be deemed to have been made by a harbour authority with the sanction of the Board of Trade; and they may by such byelaws define the area within which such byelaws are to be observed, and the Secretary of State shall have power to define the authority or authorities and officers by whom such byelaws are to be enforced and carried into effect within such area; and such authority or authorities and officers shall, for the

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purposes of this Act, other than making byelaws or assenting to a site for a new factory or magazine, have the same power within the said harbour authority and an officer of a harbour authority have respectively under this Act in a harbour.