



ST. CHRISTOPHER AND NEVIS

CHAPTER 18.12

FACTORIES ACT

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FACTORIES ACT

Act 11 of 1955 ... in force 20th October 1961

Amended by: Act 6 of 1976

Act 7 of 1976

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CHAPTER 18.12
FACTORIES ACT

AN ACT TO MAKE PROVISION RESPECTING THE HEALTH, SAFETY AND WELFARE OF PERSONS EMPLOYED IN FACTORIES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Factories Act.

Meaning of “factory”.

2. “Factory” in this Act means any premises included in the First Schedule to this Act.

Interpretation.

3. (1) In this Act and in any Regulations or Orders made thereunder—

“air receiver” means—

- (a) any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing compressed air and connected with an air compressing plant;
- (b) any fixed vessel for containing compressed air or compressed exhaust gases and used for the purpose of starting an internal combustion engine;
- (c) any fixed or portable vessel (not being part of a spraying pistol) used for the purpose of spraying by means of compressed air any paint, varnish, lacquer or similar material; or
- (d) any vessel in which oil is stored and from which it is forced by compressed air;

“bodily injury” includes injury to health;

“building operation” means the construction, structural alteration, repair or maintenance of a building (including re-pointing, re-decoration and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the foundation of, an intended building, but does not include any operation which is a work of engineering construction within the meaning of this Act;

“class or description”, in relation to factories, includes a group of factories described by reference to locality;

“contravention” includes, in relation to any provision, a failure to comply with the provision; and the expression “contravene” shall be construed accordingly;

“driving-belt” includes any driving strap or rope;

“fume” includes gas or vapour;

- “harbour” includes harbours properly so called, whether natural or artificial, piers, jetties and other works in or at which ships can obtain shelter, or ship or unship goods or passengers;
- “inspector” means the Factory Inspector appointed under this Act;
- “machinery” includes any driving belt;
- “maintained” means maintained in an efficient state, in efficient working order, and in good repair;
- “mine” includes any place, excavation or working whereon, wherein, or whereby any operation in connection with mining is carried on, but does not include a quarry;
- “Minister” means the Minister responsible for Labour;
(Inserted by Act 7 of 1976)
- “owner” means the person for the time being receiving the rents or profits of the premises in connection with which the word is used, whether on his or her own account or as agent or trustee for any other person, or who would so receive the same if the premises were let;
- “parent” means a parent or guardian of, or person having the legal custody of, or the control over a child or young person, and includes, in relation to any child or young person, any person having direct benefit from his or her wages;
- “prescribed” means prescribed by regulations under this Act or by Order of the Minister;
- “prime mover” means every engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source;
- “process” includes the use of any locomotive;
- “quarry” means any excavation for the purpose of mining stone, slate, granite or other igneous or metamorphic rocks, quartz, marble, flint, chalk, gravel, sand, clay or gypsum, together with all buildings, erections, plant, machinery, railways, appliances, stores, waste heaps and dumps belonging or appertaining thereto;
- “railway” means any railway used for the carriage of passengers or goods and includes any works of the railway company connected with the railway;
- “salt works” means any works in which the extraction of salt from brine is carried on or in which salt is produced by refining rock salt by its dissolution at the place of deposit or otherwise;
- “sanitary conveniences” includes urinals, water-closets, earthclosets, privies, ashpits, and any similar convenience;
- “steam boiler” means any closed vessel in which for any purpose steam is generated under pressure greater than atmospheric pressure and includes any economiser used to heat water being fed to any such vessel, and any superheater used for heating steam;
- “steam container” means any vessel (other than a steam pipe or coil) constructed with a permanent outlet into the atmosphere or into a space where the pressure does not exceed atmospheric pressure, and through which steam is passed at atmospheric pressure, or at approximately that pressure, for the purpose of heating, boiling, drying, evaporating or other similar purpose;

“steam receiver” means any vessel or apparatus (other than a steam boiler, steam container, a steam pipe or coil, or a part of a prime mover) used for containing steam under pressure greater than atmospheric pressure;

“stone” includes all kinds of limestone, sandstone, calcareous sandstone or basalt;

“tenement factory” means any premises where mechanical power from any prime mover within the close or curtilage of the premises is distributed for use in manufacturing processes to different parts of the same premises occupied by different persons in such manner that those parts constitute in law separate factories;

“transmission machinery” means every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance;

“woman” means a woman who has attained the age of eighteen;

“work of engineering construction” means the construction of any railway line or siding otherwise than upon an existing railway, and the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, bridge, viaduct, waterworks, reservoir, pipe-line, aqueduct, sewer, sewage works, or gasholder, except where carried on upon a railway and shall include such other works as may be specified by regulations made by the Minister;

(Amended by Act 6 of 1976)

“young person” means a person who has attained the age of fourteen and has not attained the age of eighteen.

(2) A woman, young person, or child who works in a factory, whether for wages or not, either in a process or in cleaning any part of the factory used for any process, or in cleaning or oiling any part of the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise the subject of the process therein, shall, save as is otherwise provided by this Act, be deemed to be employed therein for the purposes of this Act or of any proceedings thereunder.

(3) A young person who works in a factory, whether for wages or not, in collecting, carrying or delivering goods, carrying messages or running errands shall be deemed to be employed in the factory for the purposes of this Act or of any proceedings thereunder.

(4) For the purposes of this Act, an apprentice shall be deemed to be a person employed.

PART II

APPLICATION OF ACT

General application.

4. Save as in this Act otherwise expressly provided, the provisions of this Act shall apply only to factories as defined by this Act, but shall, except where the contrary intention appears, apply to all such factories.

Application to factories belonging to Government.

5. (1) This Act shall apply to factories belonging to or in the occupation of Her Majesty's Government in the United Kingdom or the Government of the State and to building operations and works of engineering construction undertaken by or on behalf of Her Majesty's Government in the United Kingdom or the Government of the State; but in the case of any public emergency the Minister may, by Order, to the extent and during the period named in the Order, exempt from this Act any factory belonging to Her Majesty's Government in the United Kingdom or the Government of the State or any building operations or works of engineering construction undertaken by or on behalf of Her Majesty's Government in the United Kingdom or the Government of the State or any factory in respect of work which is being done on behalf of Her Majesty's Government in the United Kingdom or the Government of the State.

(2) In this section, "Her Majesty's Government in the United Kingdom" includes any department thereof, and "Government of the State" includes any department thereof.

Application of specific provisions.

6. The Minister may, by Order, declare that the provisions of certain sections of this Act shall be applicable to tenement factories, electrical stations, premises in which steam boilers are used, premises in which hoists and lifts are used, institutions, docks, wharves, quays (including any warehouses in connection with same), and other warehouses, ships on which work is being carried out in harbour or wet dock, building operations, works of engineering construction.

(Amended by Act 6 of 1976)

Responsibility where part of building is separate factory.

7. Where a part of a building is let off as a separate factory the Minister may, by Order, declare which sections of the Act are to be the responsibility of the owner of the building and which are to be the responsibility of the occupier of the factory.

(Amended by Act 6 of 1976)

PART III**HEALTH, SAFETY AND WELFARE****Health.**

8. (1) The occupier of every factory shall—
- (a) keep the factory in a clean state;
 - (b) not permit the factory to be overcrowded;
 - (c) maintain a reasonable temperature in the factory;
 - (d) secure adequate ventilation in the factory;
 - (e) provide suitable and sufficient lighting therein;
 - (f) provide effective means for draining floors;
 - (g) provide suitable and sufficient sanitary conveniences for the use of the persons employed in the factory.

(2) The Minister may make regulations prescribing the standards to be achieved in respect to any of the above obligations and the methods of attaining them.

(3) The Minister may make Orders prohibiting the employment of any young person in a factory after a prescribed period of time, being not less than seven days, unless he or she has been examined by a duly qualified medical practitioner and certified by him or her to be fit for that employment.

(4) The Orders may apply to all factories or to such prescribed classes or descriptions of factories and to all young persons or to prescribed classes and descriptions of young persons.

(5) The Orders may also prescribe the conditions and procedure under which certificates are to be issued.

(6) The Minister may make regulations requiring arrangements to be made for medical supervision in any factory.

(Amended by Act 6 of 1976)

Safety.

9. (1) For the purpose of securing the safety of persons employed in or performing any duty in a factory the following provisions shall apply to every factory—

- (a) there shall so far as is reasonably practicable be provided and maintained safe means of access to every place at which any person has at any time to work;
- (b) adequate measures shall be taken for the prevention of fire in every factory and the provision of adequate means of escape in case of fire for the persons employed therein;
- (c) where in any factory explosive or inflammable dust, gas, vapour or substance are present, precautions shall be taken in order to reduce the risk of fire or explosion to a minimum;
- (d) all machinery used and every part thereof which is in use in any factory shall be made safe to all persons employed or working in the factory, and for this purpose the word “machinery” shall be deemed to include—
 - (i) every machine and every part thereof;
 - (ii) prime movers and every part thereof; and
 - (iii) transmission machinery including every shaft, wheel, drum, pulley, system of fast and loose pulleys, driving-belt or chain, couplings, clutch or other device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;
- (e) every steam boiler, steam container, steam receiver, air receiver, gas holder or other pressure vessel used in any factory shall be operated and maintained in such a manner as to be safe to persons employed or working in the factory;
- (f) all chains, ropes and lifting tackle, cranes and other lifting machines, hoists and lifts used in any factory shall be operated and maintained in such a manner as to be safe to persons employed in the factory;

(g) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained and every part of the ways, works, machinery or plant used in the factory shall be used in such a condition or so constructed, or so placed that it can be used without risk of bodily injury.

(2) The Minister may make regulations prescribing the standards to be achieved in respect to any of the above obligations and the methods of attaining them.

(Amended by Act 6 of 1976)

(3) If on complaint by an inspector a magistrate is satisfied that any part of the ways, works, machinery or plant used in a factory is dangerous or cannot be used without danger, or that any process or work in a factory is carried on in such a manner as to be dangerous the magistrate may, by Order, prohibit the use of the factory or part thereof or of the machinery or plant either absolutely or until the danger is remedied.

(4) Where it appears to the Minister that, in view of the number and nature of accidents occurring in any factory or class or description of factory, special provision ought to be made at that factory, or at factories of that class or description to secure the safety of persons employed therein, he or she may make regulations requiring the occupier to make such provisions by arrangements for special supervision in regard to safety, investigation of the circumstances and causes of accidents, and otherwise as may be specified in the regulations.

(Amended by Act 6 of 1976)

Welfare.

10. (1) The Minister may make regulations requiring such steps to be taken in connection with securing the welfare of persons employed in any factory as may be specified in such regulations.

(2) The regulations referred to in subsection (1)—

(a) may be made for any particular factory, or for factories of any class or description, or for any class of persons employed in any factory;

(b) may, in particular, require—

(i) the provision of an adequate supply of wholesome drinking water;

(ii) the provision of washing facilities;

(iii) the provision of accommodation for clothing not worn during working hours and for drying such clothing;

(iv) the provision for the use of employed persons of suitable facilities for sitting during the course of their employment;

(v) the provision and maintenance so as to be readily accessible of a first-aid box or first-aid equipment;

(vi) the provision and maintenance of such other arrangements as appear to him or her to be necessary, including canteens, mess-rooms, rest rooms, welfare supervision.

(3) The Minister may make regulations prescribing the standards to be achieved in respect to the above regulations and the methods of attaining them.

(Amended by Act 6 of 1976)

Special protective measures.

11. (1) The Minister may make regulations prescribing the measures to be taken to protect the persons employed against the inhalation of any dust, fumes or other impurities likely to be injurious or offensive to persons employed.

(2) No person shall be permitted to partake of food or drink in any room where any lead, arsenic or other poisonous substance is used.

(3) The Minister may, by Order, prohibit the taking of meals in any room where he or she is satisfied that it may be undesirable or injurious to health to take meals in such rooms.

(4) Suitable provision shall be made for enabling persons employed in any such room to take their meals elsewhere in the factory.

(5) The Minister may, by Order, specify any process which involves a special risk of injury to the eyes and may require the provision of suitable goggles or effective screens to protect the eyes of the persons employed in that process.

(6) Where in any factory workers are employed in any process involving exposure to wet or to any injurious or offensive substance the Minister may, by Order, require the provision and maintenance of suitable protective clothing and appliances, including where necessary, suitable gloves, footwear, goggles and head coverings for the use of such workers.

(7) No person shall use white phosphorus in the manufacture of matches.

(8) For the purpose of this part of the Act, the expression "white phosphorus" means the substance usually known as white or yellow phosphorus.

(9) The Minister may make regulations to secure the health and welfare of workers employed in any factory in which atmospheric humidity is artificially produced by steaming or other means in connection with any textile process.

(10) The Minister may make regulations prohibiting or restricting the carrying on of work in any underground room, and may prescribe the standards of construction, height, light, ventilation, any hygienic conditions and the means of escape in case of fire to be provided in any such workroom in which work is permitted to be carried on.

(11) In every laundry, effective steps shall be taken to regulate the temperature in every ironing room and to carry away the steam in every washhouse and all stoves for heating irons shall be so separated from any ironing room or ironing table so as to protect the workers from the heat thereof.

(12) The Minister may make regulations prescribing the maximum weights which may be lifted, carried, or moved by persons employed in factories; and such regulations may prescribe different weights in different circumstances, and may relate either to persons generally or to any class of persons, or to persons employed in any class or description of factory or in any process.

(13) Where the Minister is satisfied that any manufacture, machinery, plant, equipment, appliance, process or description of manual labour used in factories is of such a nature as to cause risk of bodily injury or be offensive to the persons employed, or any class of those persons he or she may, subject to the provisions of this Act, make such special regulations as appear to him or her to be reasonably practicable and to meet the necessity of the case.

- (14) The regulations referred to in subsection (13) may—
- (a) prohibit or restrict the employment of all persons or any class of persons in circumstances specified in the regulations;
 - (b) prohibit, limit or control the use of any material or process and may apply to all factories or to any specific class or description of such factories;
 - (c) provide for exemption in prescribed circumstances; and
 - (d) impose obligations on owners of factories, employed persons and other persons, as well as on the occupiers of factories.
- (Amended by Act 6 of 1976)*

PART IV

MISCELLANEOUS PROVISIONS

Notice of occupation of factory, and use of mechanical power.

12. Every person shall, not less than one month before he or she begins to occupy, or to use premises as, a factory, serve on the inspector a written notice stating the particulars prescribed in the Second Schedule, and if he or she fails to do so, he or she commits an offence and is liable, on conviction, to a fine not exceeding one hundred and fifty dollars or fifty dollars for each day since the expiration of the month aforesaid, whichever is the greater, or to imprisonment for two months or to both such penalties.

(Amended by Acts 7 of 1976 and 9 of 1986)

Notices, records etc.

- 13.** The Minister may, by regulations, require—
- (a) such notices to be posted in any factory;
 - (b) such registers and records to be kept;
 - (c) such returns of persons employed to be submitted,

as may appear to him or her to be necessary.

(Amended by Act 6 of 1976)

Protection of outworkers.

14. The Minister may make regulations to facilitate the protection of persons employed outside a factory by the occupier of the factory in the business of the factory.

(Amended by Act 6 of 1976)

Duties of person employed.

15. (1) No person employed in a factory or in any other place to which any provisions of this Act apply shall wilfully interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of this Act for securing the health, safety or welfare of the persons employed in the factory or place, and where any means or appliance for securing health or safety is provided for the use of any such person under this Act, he or she shall use the means or appliance.

(2) No person employed in a factory or in any other place to which any provisions of this Act apply shall wilfully and without reasonable cause do anything likely to endanger himself or herself or others.

Prohibition of deductions from wages.

16. The occupier of a factory shall not, in respect of anything to be done or provided by him or her in pursuance of this Act, make any deduction from the sum contracted to be paid by him or her to any person employed or receive or allow any person in his or her employment to receive any payment from any such person.

PART V

ADMINISTRATION

Appointment of inspector and other officers.

17. (1) The Factory Inspector shall be responsible for the administration of this Act except in so far as the Minister may impose certain duties on other Government officers.

(2) The Minister may appoint a Factory Inspector, under whatever title he or she may, from time to time, determine and with such duties as he or she may, from time to time, assign, and such other officers as he or she thinks necessary for the execution of this Act and may remove such inspector and other officers.

(Amended by Act 6 of 1976)

Powers of inspector.

18. (1) An inspector shall, for the purpose of the execution of this Act, have power to do all or any of the following things, that is to say—

- (a) to enter, inspect and examine, by day or by night, a factory, and every part thereof, when he or she has reasonable cause to believe that any person is employed therein, and to enter, inspect and examine by day, any place which he or she has reasonable cause to believe to be a factory and any part of any building of which a factory forms part and in which he or she has reasonable cause to believe that explosive or highly inflammable materials are stored or used;
- (b) to take with him or her a police officer if he or she has reasonable cause to apprehend any serious obstruction in the execution of his or her duty;
- (c) to require the production of the registers, certificates, notices and documents, directed to be kept in pursuance of this Act and to inspect, examine and copy any of them;
- (d) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with, so far as respects a factory and any persons employed in a factory;
- (e) to require any person whom he or she finds in a factory to give such information as it is in his or her power to give as to who is the occupier of the factory;

- (f) to examine, either alone or in the presence of any other person, as he or she thinks fit, with respect to matters under this Act, every person whom he or she finds in a factory or whom he or she has reasonable cause to believe to be or to have been within the preceding three months employed in a factory, and to require every such person to be so examined and to sign a declaration of the truth of the matters respecting which he or she is so examined; so, however, that no one shall be required under this provision to answer any question or to give any evidence tending to incriminate himself or herself;
- (g) in the case of an inspector who is a duly qualified medical practitioner, to carry out such medical examinations as may be necessary for the purposes of his or her duties under this Act;
- (h) to exercise such other powers as may be necessary for carrying this Act into effect.

(2) An inspector, if so authorised in writing by the Labour Commissioner, may, although he or she is not a qualified legal practitioner, prosecute, conduct or defend in any legal proceedings arising under this Act or in the discharge of his or her duties as the Inspector.

(3) Where an inspector is of opinion that the employment of any young person in a factory or in any particular process or kind of work in a factory is prejudicial to his or her health or the health of other persons, he or she may serve written notice thereof on the occupier of the factory requiring that the employment of that young person in the factory or in the process or kind of work, as the case may be, be discontinued after the period named therein, not being less than one nor more than seven days after the service of the notice and the occupier shall not continue after the period named in the notice to employ that young person, unless, after the service of the notice, the young person has been examined by a duly qualified medical practitioner, and certified by him or her to be fit for employment in the factory or in the process or kind of work, as the case may be.

(4) An inspector may take, for analysis, samples of material used, or intended to be used, in a factory, which he or she thinks may prove on analysis to be likely to cause bodily injury to the persons employed.

(5) The Minister may make regulations prescribing the procedure to be followed in taking samples.

(Amended by Act 6 of 1976)

Certificate of appointment of inspector.

19. Every inspector shall be furnished with a certificate of his or her appointment, and when visiting a factory or place to which any of the provisions of this Act apply shall, if required, produce the said certificate to the occupier of, or other person holding a responsible position of management at, the factory.

Duty to furnish means for inspector.

20. The occupier of every factory, his or her agents and employees shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry, the taking of samples, or otherwise for the exercise of his or her powers under this Act in relation to that factory.

Penalty for disclosure of trade secrets.

21. If any person who, in pursuance of powers conferred by this Act or any regulations or orders made thereunder, enters or is admitted into any factory or place discloses, without the permission of the occupier, to any person any information obtained by him or her in a factory or place with regard to any manufacturing process or trade secret, he or she unless such disclosure was made in the performance of his or her duty, commits an offence and is liable to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months or to both such punishments.

(Amended by Acts 7 of 1976 and 9 of 1986)

Issue and revocation of certificates.

22. Any certificate issued under, or for the purposes of, this Act by an inspector may be issued for a limited period or without limit of period and may be varied or revoked by the inspector issuing the same, or any successor in office.

Provisions as to regulations and orders made under this Act.

23. Any regulation or Order made under this Act may be made for a limited period or without limit of period, and may be made subject to such conditions as the authority or persons which or who made the regulation or Order thinks fit, and may contain such supplemental and consequential provisions as that authority or person considers necessary for giving full effect to the regulation or Order.

PART VI**OFFENCES, PENALTIES AND LEGAL PROCEEDINGS****Offences.**

24. (1) In the event of any contravention in or in connection with or in relation to a factory of the provisions of this Act, or of any regulation or Order made thereunder, the occupier or (if the contravention is one in respect of which the owner is by or under this Act made responsible) the owner, of the factory, subject as hereinafter in this Act provided, commits an offence.

(2) In the event of a contravention by an employed person of the provisions of this Act with respect to duties of persons employed or of a contravention by any person of any regulation or Order made under this Act which expressly imposes any duty upon him or her, that person commits an offence and the occupier or owner, as the case may be, shall not be guilty of an offence in respect of that contravention unless it is proved that he or she failed to take all reasonable steps to prevent the contravention.

(3) If the occupier of a factory avails himself or herself of any special exception allowed by or under this Act and fails to comply with any of the conditions attached to the exception, he or she shall be deemed to have contravened the provisions of this Act.

(4) If persons are employed in a factory otherwise than in accordance with the provisions of this Act or of any regulation or Order made thereunder, there shall be deemed to be a separate contravention in respect of each person so employed.

(5) Where an offence under this Act committed by a company, co-operative society or other body of persons is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, chairperson, manager, secretary or other officer of the company, co-operative society or other body of persons, he or she, as well as the company, co-operative society or other body of persons, commit the offence and shall be liable to be proceeded against and punished accordingly.

Provisions regarding continuing offences.

25. It is hereby declared that where the contravention of any provision of this Act is a continuing offence—

- (a) the recommencement of such offence after any interval constitutes a fresh offence;
- (b) a prosecution may be instituted, and the person accused may be convicted and sentenced, from time to time in relation to any portion of the period during which the offence continues to be committed, not being a portion of such period in relation to which the person accused has been previously convicted and sentenced for the offence.

Fines for offences for which no express penalty provided.

26. Subject as hereinafter in this Act or in any regulations or Orders made thereunder provided, any person found guilty of an offence under this Act or in any regulations or Orders made thereunder for which no express penalty is provided by this Act or in any regulations or Orders made thereunder shall be liable to a fine not exceeding one thousand dollars, and, if the contravention in respect of which he or she was so convicted is continued after the conviction he or she (subject to the provisions of section 27) commits a further offence and shall be liable in respect thereof to a fine not exceeding fifty dollars for each day on which the contravention was so continued.

(Amended by Acts 7 of 1976 and 9 of 1986)

Power of court to order cause of contravention to be remedied.

27. Where the occupier or owner of a factory is convicted of an offence under this Act, the court may, in addition to or instead of inflicting a fine, order him or her, within the time specified in the order, to take such steps as may be so specified for remedying the matters in respect of which the contravention occurred, and may, on application, enlarge the time so specified, and where such an order is made, the occupier or owner shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the court, but if, after the expiration of that time as originally specified or enlarged by subsequent orders, the order is not complied with, the occupier or owner, as the case may be, shall be liable to a fine not exceeding fifty dollars for each day on which the non-compliance continues.

(Amended by Acts 7 of 1976 and 9 of 1986)

Fines in case of death or injury.

28. If any person is killed, or dies, or suffers any bodily injury, in consequence of the occupier or owner of a factory having contravened any provision of this Act or of any regulation or order made thereunder, the occupier or owner of the factory shall, without prejudice to any other penalty, be liable to a fine not exceeding five thousand dollars, and the whole or any part of the fine may be applied for the benefit of the

injured person or his or her family or otherwise as the Minister determines:

Provided that—

- (a) in the case of injury to health, the occupier or owner shall not be liable to a fine under this section unless the injury was caused directly by the contravention; and
- (b) the occupier or owner shall not be liable to a fine under this section if proceedings against him or her under this Act in respect of the act or default by which the death or injury was caused, have taken place and been dismissed before the death or injury occurred.

(Amended by Act 9 of 1986)

Fine for offence by parent.

29. If a young person is employed in any factory in contravention of the provisions of this Act, the parent of the young person commits an offence and liable to a fine not exceeding one hundred and fifty dollars, unless it appears to the court that the contravention occurred without the consent, connivance or wilful default of the parent.

(Amended by Acts 7 of 1976 and 9 of 1986)

Forgery of certificates, false entries, and false declarations.

30. If any person—

- (a) forges or counterfeits any certificate required by, under, or for the purposes of, this Act or any order or regulation made thereunder;
- (b) gives or signs any such certificate knowing it to be false in any material particular;
- (c) knowingly utters or makes use of any such certificate so forged, counterfeited, or false as aforesaid;
- (d) knowingly utters or makes use of as applying to any person any such certificate which does not so apply;
- (e) personates any person named in any such certificate;
- (f) falsely pretends to be an inspector;
- (g) wilfully connives at any such forging, counterfeiting, giving, signing, uttering, making use, personating or pretending as aforesaid;
- (h) wilfully makes a false entry in any register, notice, certificate, or document required by, under or for the purposes of this Act or any order or regulation made thereunder to be kept or served or sent;
- (i) wilfully makes or signs a false declaration required by, under or for, the purposes of this Act or any order or regulation made thereunder;
- (j) knowingly makes use of any such false entry or declaration as aforesaid,

he or she, without prejudice to any other penalty, commits an offence under this Act, and liable to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding one year.

(Amended by Act 9 of 1986)

Penalty for person actually committing offence for which occupier is liable.

31. Where an act or default for which an occupier or owner is liable under this Act is in fact the act or default of some agent, servant, worker or other person, that agent, servant, worker or other person commits an offence and is liable to the like fine as if he or she were the occupier or owner, as the case may be.

Penalty for obstruction, etc.

32. (1) Any person who—

- (a) obstructs or delays an inspector in the due exercise of any power conferred on him or her by or under this Act;
- (b) refuses to answer, or answers falsely, any inquiry authorised by or under this Act to be made;
- (c) fails to produce any register, certificate, book, or document, he or she is required by or under this Act to produce; or
- (d) conceals or prevents, or attempts to conceal or prevent, any person from appearing before or being examined by an inspector,

commits an offence and is liable on conviction thereof to a fine not exceeding one hundred and fifty dollars or to imprisonment for a term not exceeding three months or to both such penalties, and, in the case of a second or subsequent conviction under this section within two years from the last conviction for the same offence, to a fine of five hundred and fifty dollars or to imprisonment for a term not exceeding six months or to both such penalties.

(Amended by Acts 7 of 1976 and 9 of 1986)

(2) Where an offence against subsection (1) is committed in a factory by a person other than the occupier thereof, both that person and the occupier of the factory commit that offence.

Power of occupier or owner to exempt himself or herself from liability on conviction of the actual offender.

33. (1) Where the occupier or owner of a factory is charged with an offence under this Act, he or she shall be entitled upon information duly laid by him or her and on giving to the prosecution not less than three days' notice in writing of his or her intention, to have any other person whom he or she charged as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or owner of the factory proves to the satisfaction of the court—

- (a) that he or she has used all due diligence to enforce the execution of this Act and of any relevant order or regulation made thereunder; and
- (b) that the said other person had committed the offence in question without his or her consent, connivance or wilful default,

that other person shall be summarily convicted of the offence, and the occupier or owner shall not be guilty of the offence and the person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings.

(2) The prosecution shall have the right in any such case to cross-examine the occupier or owner if he or she gives evidence and any witnesses called by him or her in support of his or her charge, and to call rebutting evidence.

(3) When it is made to appear to the satisfaction of an inspector at the time of discovering an offence—

- (a) that the occupier or owner (as the case may be) of the factory has used all due diligence to enforce the execution of this Act;
- (b) by what person the offence has been committed; and
- (c) that it has been committed without the consent, connivance or wilful default of the occupier or owner and in contravention of his or her orders,

the inspector shall proceed against the person whom he or she believes to be the actual offender without first proceeding against the occupier or owner of the factory.

Proceedings against persons other than occupiers or owners.

34. Where, under this Act, any person is substituted for the occupier or owner with respect to any provisions of this Act, any order, summons, notice, or proceeding, which for the purpose of any of those provisions is by or under this Act required or authorised to be served on or taken in relation to the occupier or owner, is hereby required or authorised (as the case may be) to be served on or taken in relation to that person.

Owner of machine liable in certain cases instead of occupier.

35. Where in a factory the owner or hirer of a machine or implement moved by mechanical power is some person other than the occupier of the factory, the owner or hirer shall, so far as respects any offence under this Act committed in relation to a person who is employed in or about or in connection with that machine or implement, and is in the employment or pay of the owner or hirer, be deemed to be the occupier of the factory.

Prosecution of offences and recovery and application of fines.

36. (1) In any proceedings under this Act, it shall be sufficient in the information to allege that the factory is a factory within the meaning of this Act and to state the name of the ostensible occupier of the factory, or, where the occupier is a firm, or company, the title or name of such firm or company.

(2) Where, with respect to or in consequence of any accident in a factory, a report is made by any authority appointed to hold a formal investigation under any law, or a coroner's inquest is held, and it appears from the report, or from the proceedings at the inquest, that any of the provisions of this Act, or any orders or regulations made thereunder, were not complied with at or before the time of the accident, summary proceedings against any person liable to be proceeded against in respect of such non-compliance may be commenced at any time within three months after the making of the report or the conclusion of the inquest.

(3) Where any offence is committed under this Act by reason of a failure to make an examination, enter a report, or do any other thing, at or within a time specified by this Act or any regulation or order made thereunder, the offence shall be deemed to continue until the examination is made, or the report entered, or the other thing done, as the case may be.

(4) Where proceedings are taken before a court with respect to an offence under this Act alleged to be committed in or with reference to a factory, no person shall be qualified to act as a member of the court who is the occupier, or owner of the factory, or the husband, wife, parent, son, daughter, brother, or sister of the occupier

or owner of the factory, or a person engaged in, or an officer of any association of persons engaged in, the same trade or occupation as any person charged with the offence.

Special provisions as to evidence.

37. (1) If a person is found in a factory at any time at which work is going on or the machinery is in motion, except during the intervals for meals or rest, he or she shall, until the contrary is proved, be deemed, for the purposes of this Act, to have been then employed in the factory:

Provided that this subsection shall not apply to a factory in which the only persons employed are members of the same family dwelling there.

(2) Where in any proceedings under this Act with respect to a young person it appears to the court that that young person is apparently of or below the age alleged by the informant, it shall lie on the defendant to prove that the young person is not of or below that age.

(3) Where any entry is required by this Act or by any order or regulations made thereunder to be made, the entry made by the occupier of a factory or on his or her behalf shall, as against him or her, be admissible as evidence of the facts therein stated, and the fact that any entry so required with respect to the observance of any provision of this Act or of any order or regulation made thereunder has not been made, shall be admissible as evidence that the provision has not been observed.

Service and sending of documents, etc.

38. (1) Any document (including any summons or order) required or authorised to be served under this Act may be served—

- (a) on any person by delivering it to him or her, or by leaving it at, or sending it by post to, his or her residence;
- (b) on any firm or company by delivering it to any partner of the firm or any director, chairperson, manager, secretary or other officer of the company, or by leaving it at, or sending it by post to, the office or the registered office of the firm or company;
- (c) on the owner or occupier of a factory (including any such owner or occupier being a limited company), in any such manner as aforesaid, or by delivering it, or a true copy thereof, to any person apparently not under the age of sixteen years at the factory.

(2) Any such document may be addressed for the purpose of the service thereof on the occupier of a factory, to “the occupier” at the proper postal address of the factory, without further name or description.

(3) The foregoing provisions of this section shall apply with the necessary modifications to documents required or authorised under this Act to be sent to any person, firm, owner or occupier, and to the sending, addressing, and delivery of such documents.

Certificates of birth.

39. Where the age of any person is required to be ascertained or proved for the purposes of this Act any person shall, on application and on payment of the prescribed fee, be entitled to obtain a certified extract under the hand of the Registrar-

General of the entry in the register under the Registration of Births, Deaths and Marriages Act, Cap. 12.13 of the birth of that person.

Power of court to modify agreements.

40. If by reason of an agreement between the owner and the occupier of premises the whole or any part of which has been let as a factory the owner or occupier is prevented from carrying out any structural or other alterations in the premises which are necessary to enable him or her to comply with the provisions of this Act or of any regulation or order made under this Act or in order to conform with any standard or requirement imposed by or under this Act, he or she may apply in accordance with Rules of Court to the High Court, and the court, after hearing the parties and any witnesses whom they desire to call, may make such an order setting aside or modifying the terms of the agreement as the court considers just and equitable in the circumstances of the case.

Power of court to apportion expenses.

41. Where in any premises the whole or any part of which has been let as a factory any structural or other alterations are required in order to comply with the provisions of this Act or of any regulation or order made under this Act or in order to conform with any standard or requirement imposed by or under this Act and the owner or occupier, as the case may be, alleges that the whole or part of the expenses of the alterations ought to be borne by the occupier or owner, the owner or occupier may apply in accordance with Rules of Court to the High Court, and the court, after hearing the parties and any witnesses whom they may desire to call, may make such an order concerning the expenses or their apportionment as the court considers just and equitable in the circumstances of the case, regard being had to the terms of any contract between the parties, or in the alternative the court may, at the request of the owner or occupier, determine the lease.

Provisions to be additional.

42. Except where otherwise expressly provided, the provisions of this Act shall be in addition to, and not in substitution for, or diminution of, the provisions of any other Act.

FIRST SCHEDULE*(Section 2)*

INTERPRETATION OF EXPRESSION FACTORY

(1) Subject to the provisions of this Act, the expression “factory” means any premises in which, or within the close or curtilage or precincts of which, persons are employed in manual labour in any process for or incidental to any of the following purposes, namely—

- (a) the making of any article or of part of any article;
- (b) the altering, repairing, ornamenting, finishing, cleaning or washing; or the breaking up or demolition of any article; or
- (c) the adapting for sale of any article,

being premises in which, or within the close or curtilage or precincts of which, the work is carried on by way of trade or for purposes of gain and to or over which the employer of the persons employed therein has the right of access or control; and (whether or not they are factories by reason of the foregoing definition) the expression “factory” also includes the following premises in which persons are employed in manual labour, that is to say—

- (i) any yard or any dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;
- (ii) any premises in which the business of sorting any articles is carried on as a preliminary to the work carried on in any factory or incidentally to the purposes of any factory;
- (iii) any premises in which the business of washing or filling bottles or containers or packing articles is carried on incidentally to the purposes of any factory;
- (iv) any laundry carried on as ancillary to another business, or incidentally to the purposes of any public institutions;
- (v) any premises in which the construction, reconstruction or repair of locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking or other industrial or commercial undertaking, not being any premises used for the purpose of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out;
- (vi) any premises in which printing by letter-press, lithography, photogravure, or other similar process, or bookbinding is carried on by way of trade or for purposes of gain or incidentally to another business so carried on;
- (vii) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry;
- (viii) any premises in which the mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain;

- (ix) any premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction, not being premises in which such operations or works are being carried on;
- (x) any waterworks or other premises in which mechanical power is used for the purposes of, or in connection with, a public water supply;
- (xi) any irrigation works in which mechanical power is used and any pumping station used in connection with any irrigation works;
- (xii) any quarry;
- (xiii) any salt works.

(2) Any line or siding (not being part of a railway) which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory; if any such line or siding is used in connection with more than one factory belonging to different occupiers, the line or siding shall be deemed to be a separate factory.

(3) A part of a factory may, with the approval in writing of the Factory Inspector, be taken to be a separate factory and two or more factories may, with the like approval, be taken to be a single factory.

(4) Any workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would constitute the workplace a factory if the persons working therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Act, and, in the case of any such workplace not being a tenement factory or part of a tenement factory, the provisions of this Act shall apply as if the owner or occupier of the workplace were the occupier of the factory and the persons working therein were persons employed in the factory.

(5) No premises in or adjacent to and belonging to any mine (not being a quarry), being premises in which the only process carried on is a process ancillary to the getting, dressing or preparation for sale of minerals shall be deemed to be a factory.

(6) Where a place situate within the close, curtilage, or precincts forming a factory is solely used for some purpose other than the processes carried on in the factory, that place shall not be deemed to form part of the factory for the purposes of this Act, but shall, if otherwise it would be a factory, be deemed to be a separate factory.

(7) Premises shall not be excluded from the definition of a factory by reason only that they are open air premises.

(8) Where the inspector, by certificate in writing, so directs as respects all or any purposes of this Act, different branches or departments of work carried on in the same factory shall be deemed to be different factories.

(9) Any premises belonging to or in the occupation of Her Majesty's Government or any department thereof, or of the Government of the State, or any department thereof, or of any local authority, shall not be deemed not to be a factory, and building operations or works of engineering construction undertaken by or on behalf of Her Majesty's Government or any department thereof, or the Government of the State or any department thereof, or any local authority, shall not be excluded from the operation of this Act, by reason only that the work carried on thereat is not

carried on by way of trade or for purposes of gain.

SECOND SCHEDULE

(Section 12)

PARTICULARS TO BE SUBMITTED BY OCCUPIER, OR INTENDING OCCUPIER OF A FACTORY

1. Name of the occupier or intending occupier of the factory.
 2. Address and location of the factory.
 3. Nature of the work carried on, or proposed to be carried on in the factory.
 4. Whether mechanical power is used or intended to be used and, if so, its nature.
 5. Whether steam boilers are used or intended to be used and, if so, the following particulars in respect of each such boiler—
 - (a) type, description and distinctive number;
 - (b) country and year of manufacture;
 - (c) date of the last thorough examination and name of the person by whom the examination was made;
 - (d) maximum permissible working pressure in pounds per square inch.
 6.
 - (a) Total number of persons employed or intended to be employed, in the factory.
 - (b) Where persons are employed, or intended to be employed in shifts, the maximum number employed, or intended to be employed, at any one time.
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