



Offices, Shops and Railway Premises Act 1963

1963 CHAPTER 41

Exemptions

46 Power of authorities who enforce Act to grant exemptions from certain requirements thereof

- (1) The authority having power to enforce, with respect to any premises, the following provisions of this Act, namely, section 5(2) and sections 6 and 9, may—
 - (a) exempt the premises or any room therein from all or any of the requirements imposed by the said sections 5(2) and 6;
 - (b) exempt the premises from all or any of the requirements imposed by the said section 9;

if satisfied that, in the circumstances affecting the subject of the exemption, compliance with the requirements or requirement from which exemption is granted is not reasonably practicable.

- (2) The authority having power to enforce section 10(1) of this Act with respect to any premises may, if satisfied that it is not reasonably practicable for running water to be supplied there or for running water so supplied to be heated, exempt the premises from so much of that subsection as requires the water supplied to be running water.
- (3) An exemption under subsection (1) of this section of, or of a room in, any premises from a requirement of a provision of this Act may be granted for a period not exceeding two years, but may from time to time be extended for a further such period beyond the expiration of the period at the expiration of which it would otherwise expire if the authority having power to enforce that provision with respect to the premises are satisfied as mentioned in subsection (1) of this section and are further satisfied that the person who, if the exemption were not in force, would be responsible for a contravention in relation to the premises of that provision (being a contravention consisting in a failure to comply with that requirement) has not failed to do anything the doing of which might have rendered compliance with that requirement reasonably practicable.

- (4) An exemption under subsection (2) of this section may be granted without limit of time or for a specified period; but the grant of such an exemption for a specified period shall not preclude the grant of the like exemption for further periods.
- (5) An exemption of, or of a room in, any premises from a requirement imposed by a provision of this Act shall not be granted or extended under this section—
- (a) except upon application made to the appropriate authority, in such form as may be prescribed by order made by the Minister.—
 - (i) in a case where the grant of an exemption is sought, by the person who would be responsible for a contravention in relation to the premises of that provision (being a contravention consisting in a failure to comply with that requirement);
 - (ii) in a case where the extension of an exemption is sought, by the person who, if the exemption were not in force, would be responsible as aforesaid;
 - (b) unless the application is accompanied by a certificate in such form as may be so prescribed, that the obligation to which the applicant is subject by virtue of subsection (6)(a) below has been complied with; and
 - (c) until the expiration of the period of fourteen days beginning with the day next following that on which the application is made.
- (6) In relation to an application for the grant or extension of an exemption under this section of, or of a room in, any premises, compliance by the applicant with the following requirements shall be requisite, namely.—
- (a) he must, immediately before the application is made, post in the premises, in such a position, and in such characters, as to be easily seen and read by the persons employed to work in the premises, a notice—
 - (i) stating that such an application is being made ;
 - (ii) specifying the requirement from which exemption or, as the case may be, further exemption, is being sought;
 - (iii) specifying the period for which the grant or, as the case may be, the extension, is being sought (or if, where a grant of exemption is being sought under subsection (2) of this section, it be the case that the grant thereof without limit of time is being sought, specifying that fact);
 - (iv) specifying the name and address of the authority to whom the application is being made and notifying the persons aforesaid that written representations with respect to the application may be made by any of them to that authority before the expiration of the period of fourteen days beginning with the day next following that on which the notice is posted in compliance with this paragraph ;
 - (b) he must keep the said notice posted as aforesaid throughout the last-mentioned period ;
- and a person making an application under this section who fails to comply with an obligation to which he is, in relation to the application, subject by virtue of this subsection shall be guilty of an offence and liable to a fine not exceeding twenty pounds.
- (7) An exemption under this section of, or of a room in, any premises from a requirement imposed by a provision of this Act may, if the authority having power to enforce that provision with respect to the premises cease to be satisfied with respect to the matters with respect to which they were satisfied when the exemption was granted

or, if the exemption has been extended under subsection (3) of this section, when it was extended, be withdrawn by that authority provided that three months' notice of intention to withdraw it has been given to the person who, if the exemption were not in force, would be responsible for a contravention in relation to the premises of that provision (being a contravention consisting in a failure to comply with that requirement).

- (8) Where an exemption of, or of a room in, any premises from a requirement imposed by a provision of this Act or an extension of such an exemption is granted under this section by an authority, a certificate of the grant or extension shall be sent by the authority to the person who, if the exemption were not in force, would be responsible for a contravention in relation to the premises of that provision (being a contravention consisting in a failure to comply with that requirement).
- (9) a certificate such as is mentioned in the last foregoing subsection shall, so long as the exemption whose grant or extension is certified thereby continues in force, be kept posted in the premises to which the exemption relates in such a position as to be easily seen and read by the persons employed to work in the premises.
- (10) Notice of the refusal by an authority to grant or extend an exemption under this section shall be given by them to the applicant for the grant or extension and also (if it be the case that representations with respect to the application were duly made by the persons employed to work in the premises to which the application related or any of those persons), either individually to such of those persons as duly made representations or to a person appearing to the authority to be representative of such of those persons as duly made representations or to each of a number of persons who appear to the authority to be representative between them of such of those persons as duly made representations.
- (11) person who is aggrieved—
- (a) by the refusal of an authority to grant or extend an exemption under this section of, or of a room in, any premises; or
 - (b) by a notice of intention to withdraw such an exemption ;
- may, within twenty-one days of the refusal or, as the case may be, service of the notice, appeal, if the premises are situate in England or Wales, to a magistrates' court acting for the petty sessions area in which they are situate, or, if they are situate in Scotland, to the sheriff within whose jurisdiction they are situate, and on any such appeal—
- (i) in a case falling within paragraph (a) above, the court or sheriff, if satisfied with respect to the matters with respect to which the authority would have to have been satisfied as a condition of their granting or extending the exemption, may order the authority to grant or extend it, in the case of an exemption under subsection (1) of this section, for such period not exceeding two years as may be specified in the order, and, in the case of an exemption under subsection (2) of this section, either without limit of time or for such period as may be so specified ;
 - (ii) in a case falling within paragraph (b) above, the court or sheriff, if satisfied with respect to the matters with respect to which the authority were satisfied when the exemption was granted or, if it has been extended, when it was extended, may order the authority to cancel the notice of intention to withdraw the exemption.
- (12) An application for the grant under this section of an exemption of, or of a room in, any premises from a requirement imposed by section 5(2), 6, 9 or 10(1) of this Act may be made, and such an exemption may be granted, despite the fact that the

provision imposing the requirement is not in force in relation to the premises, but such an application shall not be entertained unless an order has been made under the following provisions of this Act appointing either in relation to all premises to which this Act applies or in relation to premises of a class within which fall the premises in question, a day for the coming into operation of that provision ; and for the purposes of the application of the foregoing provisions of this section to an application made by virtue of this subsection—

- (a) references to the authority having power to enforce with respect to the premises the provision imposing the requirement from which exemption is sought shall be construed as referring to the authority who would have power so to enforce that provision if it were in force; and
 - (b) the reference in subsection (5)(a)(i) to the person who would be responsible for such a contravention in relation to the premises of that provision as is therein mentioned shall be construed as referring to the person who, if that provision were in force, would be responsible for such a contravention as is so mentioned and the reference in subsection (8) to the person who, if the exemption were not in force, would be responsible as aforesaid shall, if the exemption is granted and the provision in question is not in force at the time of the grant, be similarly construed.
- (13) In relation to an application made under this section with respect to, or to a room in, premises which form part of a building to which section 42 or 43 of this Act applies, subsection (6) above shall have effect with the substitution, for the words in paragraph (a) " post in the premises " , of the words " post in the premises or in a part of the building which for the purposes of the said section 42 or the said section 43 (as the case may be) is referred to as a common part of the building " .
- (14) For the purposes of subsection (5) of this section, " appropriate authority " , in relation to an application for the grant or extension of an exemption of, or of a room in, any premises from a requirement imposed by section 5(2), 6, 9 or 10(1) of this Act.—
- (a) where the authority who, by virtue of section 52 of this Act, have power to enforce with respect to the premises the provision imposing the requirement (or, where the application is made by virtue of subsection (12) above, the authority who, by virtue of that section, would have power so to enforce that provision if it were in force) is other than a factory inspector, a mine and quarry inspector or a person authorised under subsection (3) or (6) of the said section 52, means that authority;
 - (b) where the authority who, by virtue of the said section 52, have power to enforce with respect to the premises the provision imposing the requirement (or, where the application is made as aforesaid, the authority who, by virtue of that section, would have power so to enforce that provision if it were in force) is a factory inspector or a person authorised under section 52(3) of this Act, means the factory inspector in charge of the district in which the premises are situate;
 - (c) where the authority who, by virtue of the said section 52, have power to enforce with respect to the premises the provision imposing the requirement (or, where the application is made as aforesaid, the authority who, by virtue of that section, would have power so to enforce that provision if it were in force) is a mine and quarry inspector or a person authorised under section 52(6) of this Act, means the mine and quarry inspector in charge of the district in which the premises are situate.