



# Offices, Shops and Railway Premises Act 1963

## 1963 CHAPTER 41

### *Offences, Penalties and legal Proceedings*

#### **63 Offences**

- (1) In the event of a contravention, in relation to any premises to which this Act applies, of any such provisions of this Act as are mentioned in subsection (2) of this section or of regulations made under any such provisions, then—
  - (a) except in a case falling within either of the two following paragraphs, the occupier of the premises shall be guilty of an offence ;
  - (b) in a case where the contravention is one for which, by or by virtue of this Act, some other person or persons is or are made responsible as well as the occupier of the premises, that other person or those other persons and the occupier shall each be guilty of an offence;
  - (c) in a case where the contravention is one for which, by or by virtue of this Act, some other person or persons is or are made responsible instead of the occupier of the premises, that other person or each of those other persons shall be guilty of an offence.
- (2) The provisions of this Act referred to in the foregoing subsection are sections 4, 5, 6(1) to (5), 7 to 12, 13(1), 14 to 19, 23, 24, 28, 29(6), 30(1), 33 to 38, 46(9) and 48(1) and (2).

#### **64 Penalty for offences for which no express penalty is provided**

- (1) A person guilty of an offence under this Act for which no express penalty is provided shall be liable to a fine not exceeding sixty pounds and, if the contravention constituting the offence of which he is guilty is continued after his conviction of the offence, he shall be guilty of a further offence and liable, in respect thereof, to a fine not exceeding fifteen pounds for each day on which the contravention is so continued.

- (2) The foregoing subsection shall, in a case where the court by which a person is convicted of any such offence as aforesaid is satisfied that the contravention constituting the offence was likely to cause the death of, or serious bodily injury to, any person, have effect as if, for the reference to sixty pounds, there were substituted a reference to three hundred pounds.

## **65 Offences by bodies corporate**

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In the foregoing subsection, the expression "director", in relation to any body corporate which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking and whose affairs are managed by the members thereof, means a member of that body.

## **66 Penalty on persons actually committing offences for which others are liable**

Where a contravention of a provision of this Act or of regulations thereunder for which a person is, by virtue of the foregoing provisions of this Act, liable on conviction to a penalty was due to an act or default of another person, then, whether proceedings are or are not taken against the first-mentioned person, that other person may be charged with, and convicted of, the offence constituted by the contravention and shall, on conviction, be liable to the same punishment as that to which the first-mentioned person is, on conviction, liable.

## **67 Defence available to persons charged with offences**

It shall be a defence for a person charged with a contravention of a provision of this Act or of regulations thereunder to prove that he used all due diligence to secure compliance with that provision.

## **68 Falsification of documents, false statements, &c**

- (1) If a person—
- (a) with intent to deceive, forges—
    - (i) a fire certificate or a certificate such as is mentioned in section 46(8) of this Act; or
    - (ii) an instrument issued under regulations under this Act whereby exemption is granted from any provision of the regulations; or makes or has in his possession a document so closely resembling any such certificate or instrument as aforesaid as to be calculated to deceive; or
  - (b) for the purpose of procuring the issue of a fire certificate or the grant or extension of an exemption under section 46 of this Act or the issue under regulations under this Act of an instrument whereby exemption is granted from any provision of the regulations, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is so false,

or produces, furnishes, sends or otherwise makes use of a document which he knows to be so false or recklessly produces, furnishes, sends or otherwise makes use of a document which is so false; or

- (c) wilfully makes a false entry in any register, book, notice or other document required by or by virtue of this Act to be kept, served or given ;

he shall be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

- (2) If a person falsely pretends to be an inspector appointed under section 52(1), (2) or (5) of this Act, a person authorised under subsection (3) of that section by the Minister, a person authorised under subsection (6) of that section by the Minister of Power or an officer appointed under section 57 of this Act by the Minister, he shall be guilty of an offence and liable to a fine not exceeding ten pounds.

- (3) In this section, the expression " forges " has, in the application thereof to England and Wales, the same meaning as in the Forgery Act 1913.

**69 Removal or defacement of documents posted in pursuance of Act or regulations under it**

If, without reasonable excuse, a person removes, injures or defaces a notice or other document which is for the time being posted or displayed in any premises in pursuance of a provision of this Act or of regulations thereunder, he shall be guilty of an offence and liable to a fine not exceeding ten pounds.

**70 Prosecution of offences**

- (1) , All offences under this Act shall be triable summarily.
- (2) A magistrates' court or sheriff shall, in any proceedings for an offence under this Act, if required by either party, cause a note of the evidence to be taken and preserved.
- (3) A factory inspector, if authorised in that behalf by the Minister, may, although not of counsel or a solicitor, prosecute or conduct before a magistrates' court or before a sheriff proceedings for an offence under this Act.
- (4) Notwithstanding any rule of law in Scotland, it shall not be an objection to the competence of a factory inspector to give evidence as a witness in any prosecution for an offence under this Act that the prosecution is brought at his instance or conducted by him.

**71 Local authorities' inspectors in Scotland to have power to institute proceedings in certain cases**

- (1) An inspector appointed under this Act by a local authority may, if duly authorised in that behalf by a general resolution of the authority, make a summary application under section 22 of this Act with respect to any premises with respect to which the authority have power to enforce any of the provisions of sections 4 to 21 of this Act; and for the purposes of this subsection the expression " premises " includes a common part of a building to which section 42 or section 43 of this Act applies.
- (2) An inspector appointed under this Act by the authority discharging in any area the functions of fire authority under the Fire Services Act 1947 may, if duly authorised as

aforesaid by the authority, make a summary application under section 32 of this Act with respect to any premises in that area with respect to which they are the appropriate authority for the purposes of that section.

## **72 Appeal from orders made on complaint**

A person aggrieved by an order made by a magistrates' court on determining a complaint under this Act may appeal therefrom to a court of quarter sessions.

## **73 Power of county court and sheriff to modify agreements and apportion expenses**

- (1) A person who, by reason of the terms of an agreement or lease relating to any premises, is prevented from therein carrying out or doing any structural or other alterations or other thing whose carrying out or doing is requisite in order to secure compliance with a provision of this Act or of regulations thereunder which is, or will become, applicable to the premises, in order to comply with a requirement imposed by a notice served under section 30(4) or 35(2) of this Act or in order to enable effect to be given to proposals without contravention of a prohibition imposed by a notice served under the said section 30(4), may apply to the county court within whose jurisdiction the premises are situate, and the court may make such an order setting aside or modifying any terms of the agreement or lease as the court considers just and equitable in the circumstances of the case.
- (2) Where the carrying out or doing in any premises of any structural or other alterations or other thing whose carrying out or doing is requisite as mentioned in the foregoing subsection involves a person having an interest in the premises in expense or in increased expense, and he alleges that the whole or part of the expense or, as the case may be, the increase ought to be borne by some other person having an interest in the premises, the first-mentioned person may apply to the county court within whose jurisdiction the premises are situate, and the court, having regard to the terms of any agreement or lease relating to the premises, may by order give such directions with respect to the persons by whom the expense or increase is to be borne, and in what proportions it is to be borne by them and, if need be, for modification of the terms of any such agreement or lease so far as concerns rent payable in respect of the premises as the court considers just and equitable in the circumstances of the case.
- (3) In the application of this section to Scotland, for references to a county court there shall be substituted references to the sheriff.