



# Factories Act 1961

## 1961 CHAPTER 34

### PART VII

#### SPECIAL APPLICATIONS AND EXTENSIONS

##### *Factories occupying parts of buildings*

#### **120 Tenement factories and parts of buildings let off as separate factories-fire provisions**

The Second Schedule to this Act shall have effect for modifying certain provisions of this Act relating to fire in their application to certain factories occupying parts of buildings.

#### **121 Tenement factories-other provisions**

- (1) Subject to the following provisions of this section, the owner (whether or not he is one of the occupiers) of a tenement factory shall, instead of the occupier, be responsible for any contravention of the following provisions of this Act, that is to say—
- (a) the provisions of Part I with respect to the drainage of floors, sanitary conveniences, cleanliness, overcrowding, temperature, ventilation and lighting;
  - (b) the provisions of Part II with respect to the provision and maintenance of fencing and safety appliances, the construction, maintenance, testing and examination of machinery or plant, the construction and maintenance of floors, passages and stairs, and the power of a magistrates' court or sheriff to make orders as to dangerous factories;
  - (c) the provisions of Part III;
  - (d) the provisions of Part IV with respect to the removal of dust or fumes;
  - (e) the provisions of Part V ;
  - (f) the provisions of Part VI as to notices fixing the hours of employment and notices relating to exceptions ; and

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- (g) the provisions of Part X as to posting of abstracts and notices;  
and for the purposes of those provisions the whole of a tenement factory shall be deemed to be one factory in the occupation of the owner.
- (2) Subsection (1) of this section does not apply to any contravention arising from the use in a tenement of any fencing, appliances, machinery or plant, if the use is a matter outside the control of the owner.
- (3) Subsection (1) of this section does not apply to a contravention in rooms occupied by only one tenant—
- (a) of the provisions of Part I with respect to cleanliness, overcrowding, temperature, ventilation and lighting ; or
  - (b) of the provisions of Part IV with respect to removal of dust or fumes;
- unless the contravention arises from a failure to carry out any necessary structural work or from any defect in any machinery, plant or fixtures belonging to the owner; and does not apply to a contravention in any such room of the provisions of Part V.
- (4) Subsection (1) of this section does not apply to a contravention of the provisions of Part III unless it arises from any such failure or defect as is mentioned in subsection (3) of this section.
- (5) Where the occupier of any tenement posts in his tenement a notice with respect to the period of employment, and the intervals for meals or rests or any notice relating to an exception, the notice shall, with respect to persons employed by him, have effect in substitution for the corresponding notice posted by the owner.
- (6) The provisions of this Act shall, so far as they are applicable and have not been applied by the foregoing provisions of this section, apply to any part of a tenement factory which is not comprised within any of the separate factories as if that part were a factory and the owner were the occupier thereof.
- (7) The Minister may by special regulations modify the provisions of this section in their application to any class or description of tenement factory.

## **122 Parts of buildings let off as separate factories—other provisions**

- (1) Where a part of a building is let off as a separate factory but is not part of a tenement factory.—
- (a) the provisions of this Act specified in paragraphs (a) and (b) of subsection (2) of this section shall apply to any part of the building used for the purposes of the factory but not comprised therein;
  - (b) subject to subsections (4) and (5) of this section, the owner of the building shall be responsible for any contravention of the provisions specified in the said paragraph (a) as so applying; and
  - (c) subject to subsection (5) of this section, the owner of the building shall be responsible, instead of the occupier, for any contravention as respects the factory, of the provisions specified in paragraph (c) of subsection (2) of this section.
- (2) The said provisions are—
- (a) the provisions of Part I with respect to cleanliness and lighting, and the provisions of Part II with respect to prime movers, transmission machinery, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting

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- machines, the construction and maintenance of floors, passages and stairs, the keeping free from obstruction and slippery substances of floors, steps, stairs, passages and gangways, and with respect to steam boilers, steam receivers and steam containers, and air receivers;
- (b) the provisions of Part II with respect to the power of a magistrates' court or sheriff to make orders as to dangerous conditions and practices or as to safety of factory premises; and
  - (c) the provisions of Part I with respect to sanitary conveniences and the provisions of Part II with respect to hoists and lifts.
- (3) For the purposes of the provisions applied by the foregoing provisions of this section, lifting machines attached to the outside of the building, and chains, ropes and lifting tackle used in connection with those machines, shall be treated as being in the building, but any lifting machine not used for the purposes of the factory, and any chains, ropes or lifting tackle not used in connection with a lifting machine so used, shall be disregarded.
- (4) For any contravention (whether as respects the factory or otherwise) of the provisions of Part II with respect to chains, ropes and lifting tackle, cranes and other lifting machines, steam boilers, steam receivers and steam containers, and air receivers—
- (a) the occupier of the factory shall be responsible if it is a contravention with respect to any machinery or plant belonging to or supplied by him ; and
  - (b) the owner of the building shall be responsible in any other case;
- except that the owner shall not be responsible for a contravention of those provisions in so far as they relate to matters outside his control, and for any such contravention as respects the factory the occupier shall be responsible.
- (5) The owner shall be responsible by virtue of this section—
- (a) for the cleanliness of sanitary conveniences only when used in common by several tenants; and
  - (b) for a contravention of the provisions relating to hoists and lifts only so far as those provisions relate to matters within his control.
- (6) The reference in section fifty-four of this Act (both as it applies in relation to the factory and as it applies by virtue of the foregoing provisions of this section) to the occupier shall be construed as referring to the occupier of the factory or to the owner of the building according as the one or the other is responsible in respect of the matters complained of.
- (7) Any reference in the provisions applied by the foregoing provisions of this section to the general register shall, in relation to matters in respect of which the owner of the building is responsible, be construed as a reference to a register to be kept by him, and subsection (3) of section one hundred and sixty-six of this Act shall apply in relation to that register as if the owner were the occupier of the factory.

#### *Electrical stations*

### **123 Application of Act to electrical stations**

- (1) The provisions of this Act shall apply to any premises in which persons are regularly employed in or in connection with the processes or operations of generating, transforming or converting, or of switching, controlling or otherwise regulating, electrical energy for supply by way of trade, or for supply for the purposes of any

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transport undertaking or other industrial or commercial undertaking or of any public building or public institution, or for supply to streets or other public places, as if the premises were a factory and the employer of any person employed in the premises in or in connection with any such process or operation were the occupier of a factory.

- (2) Where any such process or operation is carried on or performed for such a supply as is mentioned in subsection (1) of this section but in other premises than those mentioned therein, then, if the premises are large enough to admit the entrance of a person after the machinery or plant therein is in position, the following provisions of this Act shall apply to the premises as if they were a factory and the employer of any person employed therein in or in connection with any such process or operation were the occupier of the factory, that is to say.—
- (a) the provisions of sections fifty and fifty-one so far as they enable the Minister to make regulations;
  - (b) the provisions of Part IV with respect to special regulations for safety and health;
  - (c) Part V;
  - (d) the provisions of Part XI with respect to powers and duties of inspectors;
  - (e) Part XII;
  - (f) Part XIII;
  - (g) Part XIV.
- (3) The Minister may by special regulations apply any of the provisions mentioned in subsection (2) of this section to any machinery or plant used—
- (a) in such processes or operations as are mentioned in subsection (1) of this section and for such a supply as is mentioned therein; but
  - (b) elsewhere than in such premises as are mentioned in subsection (1) or subsection (2) of this section,
- as if the machinery or plant were machinery or plant in a factory, and the employer of any person employed in connection with any such use of the machinery or plant were the occupier of a factory.
- (4) Subsections (1) and (2) of this section shall not, except in so far as the Minister may by special regulations direct, apply to any premises where the said processes or operations are only carried on or performed for the immediate purpose of working an electric motor or working any apparatus which consumes electrical energy for lighting, heating, transmitting or receiving messages or communications, or other purposes.

### *Institutions*

## **124 Institutions**

- (1) Where, in any premises forming part of an institution carried on for charitable or reformatory purposes, any manual labour is exercised in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning or adapting for sale, of articles not intended for the use of the institution, but the premises do not constitute a factory, the provisions of this Act shall nevertheless apply to the premises, except as provided by subsection (3) of this section, but subject to subsection (2) of this section.
- (2) If the persons having the control of the institution (in this subsection referred to as "the managers") satisfy the Minister that the only persons working therein are persons who are inmates of and supported by the institution, or persons engaged in the supervision

of the work or the management of machinery, and that the work is carried on in good faith for the purposes of the support, education, training, or reformation of persons engaged in it, the Minister may by order direct that so long as the order is in force this Act shall apply to the institution subject to the following modifications:—

- (a) the managers may submit for the approval of the Minister a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the inmates, and if the Minister is satisfied that the provisions of the scheme are not less favourable to the inmates than the corresponding provisions of this Act, the Minister may approve the scheme, and upon his approval this Act shall, until the approval is revoked, apply as if the provisions of the scheme were substituted for the corresponding provisions of this Act;
  - (b) the medical officer of the institution (if any) may, on the application of the managers, be appointed to be the appointed factory doctor for the institution;
  - (c) the provisions of Part X of this Act as to the posting of an abstract and notices shall not apply, but among the particulars required to be shown in the general register there shall be included the prescribed particulars of the scheme, or where no scheme is in force the prescribed particulars as to hours of employment, intervals for meals or rest, and holidays, and other matters dealt with in this Act;
  - (d) if the institution is carried on for reformatory purposes and the managers give notice thereof to the chief inspector, an inspector shall not, without the consent of the managers or of the person having charge of the institution under the managers, examine an inmate of the institution save in the presence of one of the managers or of the said person; but if the Minister is satisfied that there is reason to believe that a contravention of the provisions of this Act, or of any regulation or order made thereunder is taking place in the institution he may suspend the operation of the preceding provisions of this paragraph as respects the institution to such extent as he may consider necessary;
  - (e) the managers shall, not later than the fifteenth day of January in every year, send to the Minister a correct return in the prescribed form, specifying the names of the managers and the name of the person (if any) having charge of the institution under the managers, and such particulars as to the number, age, sex and employment of the inmates and other persons employed in the work carried on in the institution as may be prescribed, and if they fail to do so they shall be guilty of an offence and liable to a fine not exceeding ten pounds.
- (3) This Act shall not, except in so far as the Minister may by order direct, apply to any premises which do not constitute a factory, if the premises are subject to inspection by or under the authority of a Government department.

*Docks, wharves, quays, warehouses and ships*

**125 Docks, etc.**

- (1) The provisions of this Act specified in subsection (2) of this section shall apply to every dock, wharf or quay (including any warehouse belonging to the owners, trustees or conservators of the dock, wharf or quay, and any line or siding used in connection with and for the purposes of the dock, wharf or quay and not forming part of a railway or tramway) and every other warehouse (not forming part of a factory) in or for the purposes of which mechanical power is used—
- (a) as if it were a factory; and

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- (b) as if the person having the actual use or occupation of it or of any premises within it or forming part of it, were the occupier of a factory.

(2) The said provisions are:—

- (a) the provisions of Part II with respect to steam boilers, but with the modification that the owner of the boiler shall, instead of the person deemed to be the occupier, be responsible for any contravention of those provisions ;
- (b) the provisions of sections fifty and fifty-one so far as they enable the Minister to make regulations;
- (c) the provisions of Part II with respect to the power of the Minister to require special safety arrangements for the prevention of accidents and to the power of a magistrates' court or sheriff to make orders as to dangerous conditions and practices;
- (d) the provisions of Part III with respect to welfare regulations;
- (e) the provisions of Part IV with respect to special regulations for safety and health;
- (f) Part V;
- (g) the provisions of Part VII with respect to premises where part of a building is a separate factory, subject to such modifications as may be made by regulations of the Minister;
- (h) the provisions of Part IX with respect to the prohibition of deductions from wages;
- (j) the provisions of Part X with respect to the abstract of this Act and notices, special regulations, general registers (so far as applicable), preservation of registers and records, but subject to such modifications as may be made by regulations of the Minister, and the provisions of Part X with respect to duties of persons employed and with respect to weights, measures and weighing and measuring instruments used in ascertaining wages;
- (k) the provisions of Part XI with respect to powers and duties of inspectors;
- (l) Part XII; and
- (m) Part XIV.

(3) Subject to subsection (4) of this section.—

- (a) the provisions of this Act mentioned in paragraph (a) (subject to the modification mentioned in that paragraph) and in paragraphs (c), (e), (f), (h), (i), (k), (f) and (m) of subsection (2) of this section; and
- (b) the provisions of sections one hundred and eighteen, one hundred and fifty-one and one hundred and fifty-two of this Act with such adaptations and modifications as may be made by regulations made by the Minister;

shall apply to the process of loading, unloading or coaling of any ship in any dock, harbour or canal, and to all machinery or plant used in those processes, as if the processes were carried on in a factory and the machinery or plant were machinery or plant in a factory, and the person who carries on those processes were the occupier of a factory.

(4) Nothing in subsection (3) of this section shall operate—

- (a) to apply the provisions mentioned in paragraphs (a) and (c) of subsection (2) of this section to any machinery or plant which is on board a ship and is the property of the ship owner; or
- (b) to apply the provisions mentioned in paragraph (b) of the said subsection (3) to a member of the crew of a ship.

- (5) In subsections (3) and (4) of this section " plant" includes any gangway or ladder used by any person employed to load or unload or coal a ship.
- (6) The provisions of Part II of this Act with respect to prime movers, transmission machinery, other machinery, provisions as to unfenced machinery, construction and maintenance of fencing, construction and sale of new machinery, cleaning of machinery by women and young persons, training and supervision of young persons working at dangerous machines, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines, construction and maintenance of floors, passages and stairs, and the power of a magistrates' court or sheriff to make orders as to dangerous factories shall apply to every warehouse mentioned in subsection (1) of this section as if the warehouse were a factory and the person having the actual use or occupation thereof were the occupier of a factory.

## 126 Ships

- (1) Subject to subsection (3) of this section, the provisions of this Act specified in subsection (2) of this section shall apply to any work carried out in a harbour or wet dock in constructing, reconstructing, repairing, refitting, painting, finishing or breaking up a ship or in scaling, scurfing or cleaning boilers (including combustion chambers and smoke boxes) in a ship, or in cleaning oil-fuel tanks or bilges in a ship or any tank in a ship last used for oil of any description carried as cargo or any tank or hold last used for any substance so carried of a description specified in regulations of the Minister as being of a dangerous or injurious nature; and for the purposes of those provisions as so applying the ship shall be deemed to be a factory, and any person undertaking the work shall be deemed to be the occupier of a factory.
- (2) The said provisions are:—
  - (a) the provisions of sections fifty and fifty-one so far as they enable the Minister to make regulations ;
  - (b) the provisions of Part II with respect to the power of a magistrates' court or sheriff to make orders as to dangerous conditions and practices;
  - (c) the provisions of Part III with respect to welfare regulations;
  - (d) the provisions of Part IV with respect to special regulations for safety and health;
  - (e) Part V;
  - (f) the provisions of Part VI with respect to hours of employment (but not with respect to Sunday employment and annual holidays), subject to such modifications as may be made by regulations of the Minister to meet special circumstances;
  - (g) the provisions of sections one hundred and eighteen, one hundred and fifty-one and one hundred and fifty-two of this Act with such adaptations and modifications as may be made by regulations made by the Minister;
  - (h) the provisions of Part IX with respect to the prohibition of deductions from wages ;
  - (j) the provisions of Part X with respect to general registers (so far as applicable), preservation of registers and records, and duties of persons employed ;
  - (k) the provisions of Part XI with respect to powers and duties of inspectors;
  - (l) Part XII;
  - (m) Part XIV.

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- (3) Nothing in this Act shall apply to any such work as is mentioned in subsection (1) of this section which is done by the master or crew of a ship or done on board a ship during a trial run.

*Works of building and engineering construction*

**127 Building operations and works of engineering construction**

- (1) Subject to the following provisions of this section, the provisions of this Act specified in subsection (2) of this section shall apply—
- (a) to building operations ; and
  - (b) to works of engineering construction ;
- undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and to any line or siding which is used in connection therewith and for the purposes thereof and is not part of a railway or tramway.
- (2) The said provisions are:—
- (a) the provisions of Part I with respect to sanitary conveniences;
  - (b) the provisions of sections fifty and fifty-one so far as they enable the Minister to make regulations ;
  - (c) the provisions of Part II with respect to steam boilers and air receivers and the power of a magistrates' court or sheriff to make orders as to dangerous conditions and practices;
  - (d) the provisions of Part III with respect to welfare regulations;
  - (e) the provisions of Part IV with respect to special regulations for safety and health ;
  - (f) Part V;
  - (g) the provisions of sections one hundred and eighteen, one hundred and fifty-one and one hundred and fifty-two of this Act with such adaptations and modifications as may be made by regulations made by the Minister;
  - (h) the provisions of Part IX with respect to the prohibition of deductions from wages;
  - (j) the provisions of Part X with respect to the abstract of this Act and notices, special regulations, general registers (so far as applicable), preservation of registers and records, and duties of persons employed;
  - (k) the provisions of Part XI with respect to powers and duties of inspectors and district councils;
  - (l) Part XII;
  - (m) Part XIII;
  - (n) Part XIV.
- (3) No order made under the provisions of this Act with respect to the power of a magistrates' court or sheriff to make orders as to dangerous conditions and practices and no special regulations made under Part IV of this Act shall operate so as to interfere with the design of any works of engineering construction or with the adoption in the execution of those works of any method not inconsistent with the safety of the works or of the persons employed which is prescribed in the specification or in any signed plans issued, or written directions given, by lie consulting engineer or the engineer in charge.



- (4) The provisions of this Act in their application to building operations or to works of engineering construction shall have effect as if any place where such operations or works are carried on were a factory and any person undertaking any such operations or works to which this Act applies were the occupier of a factory, and with such other adaptations and modifications as may be made by regulations made by the Minister.
- (5) The provisions of this Act requiring general registers to be kept and copies of the prescribed abstract of this Act and of special regulations or the prescribed abstract of such regulations to be kept posted up on the premises shall be deemed to be complied with as respects building operations or works of engineering construction if the register is kept at an office of the person undertaking the operations or works and copies of the abstract of this Act and of the regulations or abstract thereof are kept posted up at each office, yard or shop of the person undertaking the operations or works at which persons employed by him on the operations or works attend, and in a position where they can easily be read by those persons.
- (6) Subject to subsection (7) of this section, any person undertaking any building operations or works of engineering construction to which this Act applies shall, not later than seven days after the beginning thereof, serve on the inspector for the district a written notice stating the name and postal address of that person, the place and nature of the operations or works, whether any mechanical power is used and, if so, its nature, the name of the district council within whose district the operations or works are situated and such other particulars as may be prescribed.
- (7) Subsection (6) of this section shall not apply to any operations or works which the person undertaking them has reasonable grounds for believing will be completed in a period of less than six weeks, except in such cases as the chief inspector may direct; and where a person undertakes any building operations or works of engineering construction in a place where such operations or, as the case may be, works are in progress, he shall not be required to give a notice under that subsection if such a notice was given in respect of the operations or works in progress.
- (8) The application of this Act to any building operations or works of engineering construction by virtue of the foregoing provisions of this section shall not be excluded by reason of the fact that they are undertaken on premises to which this Act applies apart from those provisions; and nothing in this section shall be taken as prejudicing the application of this Act to those premises apart from this section.

*Lead processes carried on in places other than factories*

**128 Employment of women and young persons in places other than factories in processes connected with lead manufacture or involving the use of lead compounds**

The following provisions of this Act, that is to say:—

- (a) the provisions relating to the employment of women and young persons in certain processes connected with lead manufacture and in processes involving the use of lead compounds;
- (b) the provisions requiring notification to be sent to the chief inspector, or to the inspector for the district, of lead poisoning contracted or occurring in factories; and

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- (c) any provision relating to powers and duties of inspectors and to offences, penalties and legal proceedings ;

shall apply to employment in any such processes as aforesaid in any place other than a factory, as if the place were a factory and the employer were the occupier of the factory, and as if the references to young persons included references to all persons who had not attained the age of eighteen.

## **129 Use of lead paint in connection with buildings**

- (1) The Minister may make special regulations for preventing danger from lead paint to persons employed in or in connection with the painting of buildings, and in particular—
- (a) for prohibiting the use of any lead compound except in the form of paste or of paint ready for use;
  - (b) for the prevention of danger arising from the application of lead paint in the form of spray;
  - (c) for prohibiting dry rubbing down and scraping;
  - (d) for providing for the periodical medical examination of persons employed in or in connection with painting with lead paint, and for the suspension from such employment of persons whose health is or appears likely to be injuriously affected thereby;
  - (e) for securing that facilities for washing during, and on cessation of, work are afforded to persons employed in or in connection with painting;
  - (f) for the use of protective clothing by persons so employed and for preventing clothes left off during work from being soiled by paint;
  - (g) for the distribution to persons so employed of instructions with regard to hygienic precautions to be taken.
- (2) The provisions of this Act specified in subsection (3) of this section shall apply in any case where persons are employed in painting buildings as if the place where they are employed were a factory and the person by whom they are employed the occupier of the factory, and with such further or other modifications as may be made by order of the Minister for the purpose of making those provisions applicable to the painting of buildings.
- (3) The said provisions are—
- (a) the provisions of section eighty-two so far as they relate to cases of lead poisoning;
  - (b) section one hundred and thirty-nine;
  - (c) sections one hundred and forty-six, one hundred and forty-nine and one hundred and fifty;
  - (d) section one hundred and fifty-five.
- (4) Subject to subsection (5) of this section, every person who employs persons in painting buildings shall send to the inspector for the district in which his office is situated a notice in writing stating his name and the address of his office, and shall keep at his office a register, which shall be available for inspection by an inspector at all reasonable times, containing such particulars as to the persons so employed by him and as to the work on which they are employed as may be prescribed, and shall make such returns to the inspector for the district as may be prescribed.

- (5) Subsection (4) of this section does not apply where the persons employed are persons whose ordinary occupation does not include the painting of buildings.
- (6) Any person failing to comply with the requirements of subsection (4) of this section shall be liable to a fine not exceeding three pounds.

### **130 Power to take samples of paint, etc.**

- (1) Where an inspector suspects that any substance used or intended for use in painting a building contains a lead compound, he may at any time take for analysis sufficient samples of that substance; and if any person who employs persons in painting buildings refuses to allow an inspector to take samples in pursuance of this section, or to give him facilities for the purpose, he shall be liable to a fine not exceeding three pounds.
- (2) Any such person may, at the time when a sample is taken under this section, and on providing the necessary appliances, require the inspector to divide the sample into two parts and to mark and seal and deliver to him one part.
- (3) Subsections (3) and (4) of section seventy-eight of this Act shall apply in relation to an analysis of a sample under this section as they apply in relation to an analysis of a sample under that section, but with the substitution of fifty pounds for one hundred pounds as the maximum amount of the fine mentioned therein.

### **131 Prohibition of employment of women and young persons in painting buildings with lead paint**

- (1) Subject to subsection (2) of this section a woman or young person shall not be employed in painting any part of a building with lead paint.
- (2) This section shall not apply to the employment of—
  - (a) persons employed as apprentices in the painting trade under arrangements approved by an order of the Minister made after consultation with the organisations, if any, representative of the employers and workers in the trade; or
  - (b) women or young persons in such special decorative or other work (other than work of an industrial character) as may be excluded from the provisions of this section by an order of the Minister.

### **132 Provisions supplementary to ss.129-131**

In sections one hundred and twenty-nine to one hundred and thirty-one of this Act "lead paint" means any paint, paste, spray, stopping, filling, or other material used in painting which, when treated in a manner prescribed by rules made by the Minister, yields to an aqueous solution of hydrochloric acid a quantity of soluble lead compound exceeding, when calculated as lead monoxide, five per cent. of the dry weight of the portion taken for analysis ; and " building " includes fixtures.