



Factories Act 1961

1961 CHAPTER 34 9 and 10 Eliz 2

PART XIV

INTERPRETATION AND GENERAL

Interpretation

175 Interpretation of expression “factory”.

- (1) Subject to the provisions of this section, 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; or
 - (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;
 - (d) the slaughtering of cattle, sheep, swine, goats, horses, asses or mules; or
 - (e) the confinement of such animals as aforesaid while awaiting slaughter at other premises, in a case where the place of confinement is available in connection with those other premises, is not maintained primarily for agricultural purposes within the meaning of the ^{M1}Agriculture Act 1947 or, as the case may be, the ^{M2}Agriculture (Scotland) Act 1948 and does not form part of premises used for the holding of a market in respect of such animals;
- 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.
- (2) The expression “factory” also includes the following premises in which persons are employed in manual labour (whether or not they are factories by virtue of subsection (1) of this section), that is to say,—
- (a) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;

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- (b) 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;
 - (c) 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;
 - (d) any premises in which the business of hooking, plaiting, lapping, making-up or packing of yarn or cloth is carried on;
 - (e) any laundry carried on as ancillary to another business, or incidentally to the purposes of any public institution;
 - (f) except as provided in subsection (10) of this section, 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;
 - (g) any premises in which printing by letterpress, 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;
 - (h) any premises in which the making, adaptation or repair of dresses, scenery or properties is carried on incidentally to the production, exhibition or presentation by way of trade or for purposes of gain of cinematograph films or theatrical performances, not being a stage or dressing-room of a theatre in which only occasional adaptations or repairs are made;
 - (j) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry;
 - (k) any premises in which 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;
 - (l) any premises in which the production of cinematograph films is carried on by way of trade or for purposes of gain, so, however, that the employment at any such premises of theatrical performers within the meaning of the ^{M3}Theatrical Employers Registration Act 1925 and of attendants on such theatrical performers shall not be deemed to be employment in a factory;
 - (m) 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;
 - (n) any premises used for the storage of gas in a gasholder having a storage capacity of not less than [^{F1}140 cubic metres].
- (3) Any line or siding (not being part of a railway or tramway) which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory; and 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.
- (4) A part of a factory may, with the approval in writing of the chief 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.
- (5) 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

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the workplace were the occupier of the factory and the persons working therein were persons employed in the 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 Minister by regulations 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 the Crown or any municipal or other public authority shall not be deemed not to be a factory, and building operations or works of engineering construction undertaken by or on behalf of the Crown or any such 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.
- (10) Premises used for the purpose of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out shall not be deemed to be a factory by reason only of paragraph (f) of subsection (2) of this section, unless they are premises used for the purposes of a railway undertaking where running repairs to locomotives are carried out.

Textual Amendments

F1 Words substituted (with saving) by [S.I. 1983/978, regs. 3, 4, Sch. 1](#)

Modifications etc. (not altering text)

C1 Definition of "factory" applied by [City of Edinburgh District Council Order Confirmation Act 1991 \(c.xix\), s. 1, Sch. Pt. I, para.2.](#)

Marginal Citations

M1 1947 c. 48.

M2 1948 c. 45.

M3 1925 c. 50.

176 General interpretation

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“bakehouse” means any place in which bread, biscuits or confectionery is or are baked by way of trade or for purposes of gain;

^{F2}

“bodily injury” includes injury to health;

[^{F3}“building operation” and “work of engineering construction” mean “construction work” within the meaning assigned to that phrase by regulation 2(1) of the Construction (Design and Management) Regulations 1994 (S.I. 1994/3140) ;]

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“calendar year” means the period of twelve months beginning with the first day of January in any year;

F4

[^{F5}“child” means any person who is not over—

- (a) compulsory school age (construed in accordance with section 8 of the Education Act 1996), or
- (b) school age (construed in accordance with section 31 of the Education (Scotland) Act 1980);]

“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 that provision, and the expression “contravene” shall be construed accordingly;

“cotton cloth factory” means any room, shed or workshop, or part thereof, in which the weaving of cotton cloth is carried on;

F6

“district council” means, as respects England and Wales, the council of a . . .
^{F7} district, and, as respects Scotland [^{F8}an islands or a district council];

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

“fume” includes gas or vapour;

“general register” means the register kept in accordance with the requirements of section one hundred and forty of this Act;

“humid factory” means a factory in which atmospheric humidity is artificially produced by steaming or other means in connection with any textile process;

[^{F9}“inspector” means an inspector appointed by the Health and Safety Executive under section 19 of the ^{M4}Health and Safety at Work etc. Act 1974 and references in any provision of this Act to the inspector for the district, the superintending inspector for the division or the chief inspector are references to an inspector so appointed for the purposes of that provision];

“machinery” includes any driving-belt;

F10

“maintained” means maintained in an efficient state, in efficient working order, and in good repair;

“the Minister” means [^{F11}the Secretary of State];

“owner”—

- (a) as respects England and Wales, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent; and
- (b) as respects Scotland, means the person for the time entitled to receive or who would, if the same were let, be entitled to receive, the rents of the premises, and includes a trustee, factor, tutor or curator, and in the case of public or municipal property, applies to the persons to whom the management thereof is entrusted;

“parent” [^{F12}means a parent of a child or young person or any person who is not a parent of his but who has parental responsibility for him (within the meaning of the Children Act 1989) or who has parental responsibilities in

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relation to him (within the meaning of section 1(3) of the Children (Scotland) Act 1995), and includes], in relation to any child or young person, any person having direct benefit from his wages;

“period of employment” means the period (inclusive of the time allowed for meals and rest) within which persons may be employed on any day;

“prescribed” means prescribed 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;

“railway” means any railway used for the purposes of public traffic whether passenger, goods, or other traffic and includes any works of the railway company connected with the railway;

“railway company” includes . . . ^{F13} a company or person working a railway under lease or otherwise;

“sanitary conveniences” includes urinals, water-closets, earthclosets, privies, ashpits, and any similar convenience;

^{F4}

[^{F14} “ship” and “vessel” have the same meaning as “ship” in the Merchant Shipping Act 1995, and “harbour” has the same meaning as in the Merchant Shipping Act 1995;]

“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;

“tramway” means a tramway authorised by or under any Act of Parliament and used for the purpose of public traffic;

“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;

“week” means the period between midnight on Saturday night and midnight on the succeeding Saturday night;

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

^{F15}
. . .

“young person” means a person who has ceased to be a child but has not attained the age of eighteen.

- (2) For the purposes of this Act, machinery or plant shall be deemed to have been constructed or reconstructed, and a factory or building to have been constructed, reconstructed, extended, added to, or converted for use as a factory, before any date, if the construction, reconstruction, extension, addition, or conversion was begun before that date.
- (3) For the purposes of this Act, a factory shall not be deemed to be a factory in which mechanical power is used by reason only that mechanical power is used for the purpose of heating, ventilating or lighting the workrooms or other parts of the factory.
- (4) 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,

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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, . . . ^{F16}.

- (5) 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, but [^{F17}section 119 of this Act shall not apply] to any such young person who is employed mainly outside the factory.
- (6) For the purposes of this Act, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.
- (7) For the purposes of this Act, an apprentice shall be deemed to be a person employed.
- (8) This Act shall in its application to London have effect as if for references to district councils there were substituted, as respects the City of London references to the common council, . . . ^{F18}
- [^{F19}(8A) In the application of this Act in relation to Wales—
- (a) any reference to a district council shall be construed as a reference to a county council or (as the case may be) county borough council; and
- (b) any reference to the district of a district council shall be construed as a reference to a county or county borough.]
- (9) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

Textual Amendments

- F2** Definition repealed by [Banking and Financial Dealings Act 1971 \(c. 80\)](#), [Sch. 2 Pt. II](#)
- F3** Definition of “building operation” in s. 176(1) deleted and substituted (2.9.1996) by [S.I. 1996/1592](#), [reg. 34](#), [Sch. 9 para. 2\(b\)\(i\)](#)
- F4** Definition repealed by [S.I. 1974/1941](#), [reg. 7](#), [Sch. 1](#)
- F5** Definition of “child” in s. 176(1) substituted (1.9.1997 subject to [Sch. 40 para. 1](#) of the amending [S.I.](#)) by [1996 c. 56](#), s. 582(1), [Sch. 37 Pt. II para. 135](#) (with s. 1(4), [Sch. 39](#)); [S.I. 1997/1623](#), [art. 2\(2\)](#)
- F6** Definition repealed by [S.I. 1983/978](#), [reg. 3](#)
- F7** Words repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)
- F8** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 155\(1\)](#)
- F9** Definition substituted by [S.I. 1974/1941](#), [Sch. 2 para. 12](#)
- F10** In s. 176(1) definition of “magistrates’ court” repealed (5.11.1993) by [Statute Law \(Repeals\) Act 1993 \(c. 50\)](#), s. 1(1), [Sch. 1 Pt. XIV](#) Gp. 3
- F11** Words substituted by virtue of [S.I. 1968/729](#), [art. 3\(2\)](#)
- F12** Words in definition of “parent” in s. 176(1) substituted (1.11.1996 subject to arts. 4-7 of the commencing Act) by [1995 c. 36](#), s. 105(4), [Sch. 4 para. 10\(b\)](#) (with s. 103(1)); [S.I. 1996/2203](#), [art. 3](#), [Sch.](#)
- F13** Words repealed by [Transport Act 1962 \(c. 46\)](#), [Sch. 12 Pt. II](#)
- F14** Definitions of “ship”, “harbour” and “vessel” in s. 176(1) substituted (1.1.1996) by [1995 c. 21](#), ss. 314(2), 316(2), [Sch. 13 para. 31](#) (with s. 312(1))
- F15** Definition of “work of engineering construction” in s. 176(1) deleted (2.9.1996) by [S.I. 1996/1592](#), [reg. 34](#), [Sch. 9 para. 2\(b\)\(ii\)](#)
- F16** Words repealed by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), [Sch. 7 Pt. II](#)

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- F17** Words in s. 176(5) substituted (3.3.1997) by 1989 c. 38, s. 29(3), **Sch. 6 para. 6**; S.I. 1997/134, **art. 2**
F18 Words repealed by **London Government Act 1963 (c. 33)**, s. 93, **Sch. 18 Pt. II**
F19 S. 176(8A) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
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Marginal Citations

- M4** 1974 c. 37.

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