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## Factories Act 1953 (Ch 220)

### CHAPTER 220

#### THE FACTORIES ACT.

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**CHAPTER 220****THE FACTORIES ACT.**

*Commencement:* 31 March, 1953.

**An Act to make provision for the health, safety and welfare of persons employed in factories and other places.**

**PART I—APPLICATION OF ACT.****1. General application of Act.**

Except as otherwise expressly provided in this Act, this Act shall apply only to factories as defined by this Act, but shall, except where the contrary intention appears, apply to all those factories.

**2. Application to factories belonging to Government.**

This Act applies to factories belonging to or in the occupation of the Government and to building operations and works of engineering construction undertaken by or on behalf of the Government.

**3. Power to exempt in case of public emergency.**

In the case of any public emergency the Minister may, by statutory instrument, to the extent and during the period named in the order, exempt from this Act either factories generally or any class or description of factory.

**PART II—INTERPRETATION.****4. Interpretation of “factory”.**

(1) Subject to this section, “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—

the making of any article or of part of any article;

the altering, repairing, ornamenting, finishing, cleaning, washing, or the breaking up or demolition of any article; or

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.

(2) Whether or not they are factories by reason of the definition in subsection (1), “factory” also includes the following premises in which persons are employed in manual labour—

any yard or dry dock (including the precincts of the yard or dry dock) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;

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;

any laundry carried on as ancillary to another business or incidentally to the purposes of any public or private institution;

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 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;

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;

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;

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;

(h) any premises in which persons are regularly employed in or in connection with the generating of electrical energy for supply by way of trade, or for supply for the purposes of any industrial or commercial undertaking or of any public building or public or private institution, or for supply to streets or other public places;

(i) any premises in which mechanical power is used for the purposes

of or in connection with a water supply, being premises in which persons are regularly employed; (j) any sewage works in which mechanical power is used and any pumping station used in connection with any sewage works.

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; 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.

Any workplace in which, with the permission of or under agreement with the owner or occupier of the workplace, two or more persons carry on any work which would constitute the workplace a factory if the persons working in the workplace were in the employment of the owner or occupier of the workplace shall be deemed to be a factory for the purposes of this Act, and, in the case of any such workplace, this Act shall apply as if the owner or occupier of the workplace were the occupier of the factory and the persons working in the workplace were persons employed in the factory.

No premises in or adjacent to and belonging to a mine, quarry or pit, being premises in which the only process carried on is a process ancillary to the getting, dressing or preparation for sale of minerals, clay, murrum, sand or stone, shall be deemed to be a factory.

No premises shall be deemed to be a factory in which less than six persons are employed and in which no mechanical power, steam boiler or gas plant is used, and in which no highly inflammable or noxious substance is manipulated, used or created.

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.

A part of a factory may, with the approval in writing of the chief inspector, be deemed to be a separate factory; and two or more factories may, with the approval in writing of the chief inspector, be deemed to be a single factory.

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

(10) Any premises belonging to or in the occupation of the Government or any local authority or other public authority or any mission or charitable institution shall not be deemed not to be a factory, and building operations or works of engineering construction undertaken by or on behalf of the Government or any local or other public authority or any mission or charitable institution shall not be excluded from the operation of this Act by reason only that the work carried on there is not carried on by way of trade or for purposes of gain.

## 5.

### General interpretation.

(1) (a)

(b)

(c) (d)

(e)

(f)

(g) (h) (i)

(j)

(k)

In this Act, unless the context otherwise requires—

“article” includes any solid, liquid or gas, or any combination of them;

“authorised person” means, in relation to the performance of any function or duty under the provisions of this Act, a person who is authorised in writing by the chief inspector to perform that function or duty;

“bodily injury” includes injury to health;

“building operation” means the construction, structural alteration, repair or maintenance of a building (including repointing, redecoration 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;

“chief inspector” means the chief inspector appointed under this

Act and any other inspector authorised to act on his or her behalf by the labour commissioner;

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

“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 61;

“inspector” means an inspector appointed under this Act and includes the chief inspector;

“local authority” means a municipal or town council, the

administration of a district or any other person or body of persons whom the Minister shall, by statutory instrument, declare to be a local authority, either generally or for any particular area of Uganda, for the purposes of this Act;

(l) “machinery” includes any driving belt;

(m) “magistrate’s court” means a court presided over by a chief magistrate or a magistrate grade I or II;

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

(o) “mine” has the same meaning as in the Mining Act, or any Act relating to mines or mining for the time being in force in Uganda;

(p) “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 rents or profits if the premises were leased;

(q) “prescribed” means prescribed by order of the labour commissioner;

(r) “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;

(s) “process” includes the use of any locomotive;

(t) “railway” means any railway used for the purposes of public traffic whether passengers, goods or other traffic, and includes any works used in connection with and for the purposes of the railway;

(u) “sanitary conveniences” includes urinals, water closets, earth closets, privies, ash pits and any similar conveniences;

(v) “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;

(w) “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;

(x) “work of engineering construction” means the construction of any railway line or siding, and the construction, structural alteration or repair (including repointing and repainting) or the demolition of any dock, harbour, inland navigation, tunnel,

bridge, viaduct, waterworks, reservoir, pipe line, aqueduct, sewer, sewage works or gasholder, and shall include such other works as may be specified by the Minister by statutory instrument.

For the purposes of this Act, machinery or plant shall be deemed to have been constructed or reconstructed before the passing of this Act, or the making of rules under this Act, and a factory or building shall be deemed to have been constructed, reconstructed, extended, added to or converted for use as a factory before the passing or commencement of this Act or the coming into operation of any provision of this Act, if the construction, reconstruction, extension, addition or conversion was begun before the passing or commencement of this Act, or the making of rules under this Act, or the coming into operation of any provision of this Act, as the case may be.

For the purposes of this Act, mechanical power shall not be deemed to be used in a factory by reason only that mechanical power is used for the purpose of heating, ventilating or lighting the workrooms or other parts of the factory.

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

### PART III—REGISTRATION OF FACTORIES.

#### **6. Register of factories.**

The chief inspector shall keep a register of factories, in which he or she shall cause to be entered such particulars in relation to every factory required to be registered under this Act as he or she may consider necessary and desirable.

#### **7. Notice of occupation of factory.**

(1) Every person shall, not less than one month before he or she begins to occupy or to use any premises as a factory, serve on the chief inspector a written notice containing the particulars set out in the First Schedule to this Act; except that—

(a) a person may begin to occupy or to use any premises as a factory, less than one month after the notice required by this subsection has been served if the chief inspector issues in his or her name the certificate of registration mentioned in subsection (2); and

(b) a person may begin to occupy a factory less than one month after the notice has been served, or before serving the notice, if he or she takes over from another person without changing the nature of the work and the notice is served as soon as practicable and in any case within one month of his or her taking over.

Upon receipt of a notice served in accordance with subsection (1), the chief inspector shall cause the factory to be registered and shall issue to the occupier a certificate of registration in his or her name in the form set out in the Second Schedule to this Act.

Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment and to a further fine not exceeding one hundred shillings or to imprisonment for seven days or to both such fine and imprisonment for every day during which the contravention continues after conviction.

Where it appears to the Minister that, in the case of temporary factories of any class or description, it is inappropriate or unnecessary to apply the provisions of this section, the Minister may, if he or she thinks fit, by order in writing direct that those provisions shall not apply to temporary factories of that class or description.

#### **8. Entries in register of factories.**

The chief inspector may vary or delete an entry in the register of factories in relation to any premises when he or she is satisfied that the variation or deletion has become necessary to maintain the accuracy of the record, and may thereupon vary any certificate of registration issued to any person

under section 7(2) in respect of the premises.

### **9. Notification of use of mechanical power.**

Not less than one month before the date upon which mechanical power is first used in any factory, the occupier shall notify in writing to the chief inspector full particulars of that mechanical power.

## **PART IV —HEALTH (GENERAL PROVISIONS).**

### **10. Cleanliness.**

Every factory shall be kept in a clean state, and free from effluvia arising from any drain, sanitary convenience or other nuisance, and, without prejudice to the generality of the foregoing provision—

accumulations of dirt and refuse shall be removed daily by a suitable method from the floors and benches of workrooms, and from the staircases and passages;

the floor of every workroom shall be cleaned at least once in every week by washing or, if it is effective and suitable, by sweeping or other method;

all inside walls and partitions, and all ceilings or tops of rooms, and all walls, sides and tops of passages and staircases shall— (i) where they have a smooth impervious surface, at least once in every period of fourteen months be washed with hot water and soap or cleaned by other suitable method; (ii) where they are kept painted with oil paint or varnished, be repainted or revarnished at least once in every period of seven years, and at least once in every period of fourteen months be washed with hot water and soap or cleaned by other suitable method; (iii) in other cases, be kept whitewashed or colour-washed and the whitewashing or colour-washing shall be repeated at least once in every period of fourteen months, except that where it appears to the chief inspector that in any class or description of factory or parts of a factory any of the foregoing provisions of this section are not required for the purpose of keeping the factory in a clean state, or are by reason of special circumstances inappropriate or inadequate for that purpose, the chief inspector may, if he or she thinks fit, by statutory instrument direct that those provisions shall not apply to factories, or parts of factories, of that class or description or shall apply as varied by the statutory instrument.

### **11. Overcrowding.**

A factory shall not, while work is carried on, be so overcrowded as to cause risk of injury to the health of the persons employed in the factory.

Without prejudice to the generality of subsection (1), a factory shall be deemed to be so overcrowded within the meaning of subsection (1) if the number of persons employed at a time in any workroom is such that the number of superficial feet allowed for every person employed is less than forty.

Every workroom shall be not less than ten feet in height measured from the floor to the lowest point of the ceiling or where there is no ceiling, to the lowest point of the roofing material.

If the chief inspector is satisfied that owing to the special conditions under which the work is carried on in any workroom the application of the provisions of subsections (2) and (3) to that workroom would be inappropriate or unnecessary, he or she may by certificate in writing except the workroom from those provisions subject to any conditions specified in the certificate.

Where a room contains a balcony, gallery or mezzanine, the balcony, gallery or mezzanine shall be treated for the purposes of this section as if it were partitioned off from the remainder of the room and formed a separate room.

### **12. Ventilation.**

Effective and suitable provision shall be made for securing and maintaining by the circulation of fresh air in each workroom the adequate ventilation of the room.

### **13. Lighting.**

Effective provision shall be made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a factory in which persons are working or passing.

All glazed windows and skylights used for the lighting of workrooms shall, so far as practicable, be kept clean on both the inner and outer surfaces and free from obstruction.

Subsection (2) shall not affect the whitewashing or shading of windows and skylights for the purpose of mitigating heat or glare.

### **14. Drainage of floors.**

Where any process is carried on which renders the floor liable to be wet to such an extent that the liquid is capable of being removed by drainage, effective means shall be provided and maintained for draining off the liquid.

### **15. Sanitary conveniences.**

Sufficient and suitable sanitary conveniences for the persons employed in the factory shall be provided, maintained and kept clean, and effective provisions shall be made for lighting the conveniences and, where persons of both sexes are or are intended to be employed (except in the case of factories where the only persons employed are members of the same family dwelling there), the conveniences shall afford proper separate accommodation for persons of each sex.

Where the sanitary conveniences provided conform to the requirements of the Drainage and Sanitation Rules or any rules replacing those rules, the sanitary conveniences shall be deemed to be sufficient and suitable for the purposes of this section.

## **PART V—SAFETY (GENERAL PROVISIONS).**

### **16. Prime movers.**

Every flywheel directly connected to any prime mover and every moving part of any prime mover, except the prime movers mentioned in section 18, shall be securely fenced, whether the flywheel or prime mover is situated in an engine house or not.

### **17. Water wheels.**

The head and tail race of every water wheel and of every water turbine shall be securely fenced.

### **18. Electric generators and motors.**

Every part of electric generators, motors and rotary converters, and every flywheel directly connected to an electric generator, motor or rotary converter, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

### **19. Transmission machinery.**

Every part of the transmission machinery shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

Efficient devices or appliances shall be provided and maintained in every room or place where work is

carried on by which the power can promptly be cut off from the transmission machinery in that room or place.

Every machine intended to be driven by mechanical power shall be provided with an efficient starting and stopping appliance, the control of which shall be in such a position as to be readily and conveniently operated by the person operating the machine.

No driving belt when not in use shall be allowed to rest or ride upon a revolving shaft which forms a part of the transmission machinery.

Suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and any such gear or appliances shall be so constructed, placed and maintained as to prevent the driving belt from creeping back onto the fast pulley.

The chief inspector may by certificate in writing grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of subsections (2) to (5) in any case where he or she is satisfied that compliance with the requirement is unnecessary or impracticable.

## **20. Other machinery.**

Every dangerous part of any machinery, other than prime movers and transmission machinery, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

Insofar as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements of subsection (1) shall be deemed to have been complied with if a device is provided which automatically prevents the operator from coming into contact with that part.

(3) Any part of a stock bar which projects beyond the headstock of a lathe shall be securely fenced unless it is in such a position as to be as safe to every person employed or working on the premises as it would be if securely fenced.

## **21. Provisions as to unfenced machinery.**

(1) In determining, for the purposes of sections 16 to 20, whether any part of machinery is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced—

no account shall be taken of any person carrying out, while the part of machinery is in motion, an examination of the part or any lubrication or adjustment shown by the examination to be immediately necessary, being an examination, lubrication or adjustment which it is necessary to carry out while the part of machinery is in motion; and

in the case of any part of transmission machinery used in any process in any factory with respect to which the chief inspector has declared, by certificate in writing, that he or she is satisfied that, owing to the continuous nature of the process, the stopping of that part would seriously interfere with the carrying on of the process in the factory, no account shall be taken of any person carrying out in the factory, by such methods and in such circumstances and subject to such conditions as may be specified in the certificate, any lubrication or any mounting or shipping of belts.

(2) Subsection (1) shall only apply where— (a) the examination, lubrication or other operation referred to in that subsection is carried out by a male person who— (i) has attained the age or apparent age of twenty years; (ii) has been sufficiently trained for the purposes of the work entailed by, and is acquainted with the dangers of moving machinery arising in connection with, the

examination, lubrication or other operation; and

(iii) is wearing a close fitting overall suit in good repair, which is fastened by means having no exposed loose ends and has no external pockets other than a hip pocket;

another person, instructed as to the steps to be taken in case of emergency, is immediately available within sight or hearing of any person carrying out the examination, lubrication or other operation; and

any ladder in use for carrying out the examination, lubrication or other operation is securely fixed or lashed, or is firmly held by a person stationed at the foot of the ladder.

## **22. Construction and maintenance of fencing.**

All fencing or other safeguards provided in sections 16 to 21 shall be of substantial construction, and constantly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use, except when any such parts are necessarily exposed for examination and for any lubrication or adjustment shown by that examination to be immediately necessary, and all the conditions specified in section 21(2) are complied with.

## **23. Construction and disposal of new machinery.**

(1) In the case of any machine in a factory being a machine intended to be driven by mechanical power—

every setscrew, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and

all spur and other toothed or friction gearing, which does not require frequent adjustment while in motion, shall be completely encased unless it is so situated as to be as safe as it would be if completely encased.

Any person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire for use in a factory in Uganda, any machine to be driven by mechanical power which does not comply with the requirements of this section commits an offence and is liable to a fine not exceeding two thousand shillings.

It shall be a good defence to any prosecution under subsection (2) against a defendant who is not the manufacturer of the machine in respect of which the prosecution has been brought, if the defendant can show that he or she took all reasonable steps to ensure that the machine did comply with the requirements of this section.

The Minister may by special rules extend the provisions of subsections (2) and (3) to machinery or plant which does not comply with such requirements of this Act as may be specified in the special rules, and any special rules made under this subsection may relate to machinery or plant in a specified process.

Nothing in this section shall apply to any machine constructed before the passing of this Act, and special rules made under this section shall not apply—

in the case of machinery or plant constructed in Uganda, to any machinery or plant constructed before the coming into force of the special rules; or

in the case of machinery or plant imported into Uganda, to any machinery or plant so imported within six months after the coming into force of the special rules.

(6) The Sixth Schedule to this Act shall apply to any special rules

made under this section.

#### **24. Vessels containing dangerous liquids.**

Every vessel, structure, sump or pit of which the edge is less than three feet above the adjoining ground or platform shall, if it contains any scalding, corrosive or poisonous liquid, and where there may be a risk of accidental immersion of any portion of the body of any person, either be securely covered or be securely fenced to at least that height, or where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing or other means to prevent any person from falling into the vessel, structure, sump or pit.

A warning notice, indicating the nature of the danger, and in a form readily understood by the persons employed, shall be marked on or attached to the vessel, structure, sump or pit or, if this is not reasonably practicable, be posted nearby.

For the purposes of this section, the adjoining ground or platform mentioned in subsection (1) shall be taken to be the highest ground or platform, whether contiguous or not, from which a person might fall into the vessel, structure, sump or pit.

#### **25. Self-acting machines.**

No traversing part of any self-acting machine and no material carried on it shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his or her employment or otherwise, be allowed on its outward or inward traverse to run within a distance of eighteen inches from any fixed structure not being part of the machine.

All practicable steps shall be taken by instructions to the person in charge of the machine and otherwise to ensure that no person employed shall be in the space between any traversing part of a self-acting spinning mule and any fixed part of the machine towards which the traversing part moves on the inward run, except when the machine is stopped with the traversing part on the outward run.

#### **26. Training and supervision of inexperienced workers.**

No person shall be employed at any machine or in any process, being a machine or process liable to cause bodily injury, unless he or she has been fully instructed as to the dangers likely to arise in connection with the machine or process and the precautions to be observed, and—

has received sufficient training in work at the machine or in the process; or

is under adequate supervision by a person who has a thorough knowledge and experience of the machine or process.

#### **27. Hoists and lifts.**

Every hoist or lift shall be of good mechanical construction, sound material and adequate strength, and be properly maintained.

Every hoist or lift shall be thoroughly examined at least once in every period of six months, or such longer period as the chief inspector may, by notice in the Gazette, direct, by an authorised person, and a report of the result of every such examination in the prescribed form and containing the prescribed particulars shall be signed by the person making the examination and shall within fourteen days be entered in or attached to the general register.

Every hoistway or liftway shall be efficiently protected by a substantial enclosure fitted with gates,

being such an enclosure as to prevent, when the gates are shut, any person falling down the way or coming into contact with any moving part of the hoist or lift.

Any gate referred to in subsection (3) shall be fitted with efficient interlocking or other devices to secure that the gate cannot be opened except when the cage or platform is at the landing and that the cage or platform cannot be moved away from the landing until the gate is closed.

Every hoist or lift and every enclosure referred to in subsection (3) shall be so constructed as to prevent any part of any person or any goods carried in the hoist or lift being trapped between any part of the hoist or lift and any fixed structure or between the counterbalance weight and any other moving part of the hoist or lift.

There shall be marked conspicuously on every hoist or lift the maximum working load which it can safely carry, and no load greater than that load shall be carried on any hoist or lift.

The following additional requirements shall apply to hoists and lifts used for carrying persons, whether together with goods or otherwise—

efficient automatic devices shall be provided and maintained to prevent the cage or platform overrunning;

every cage shall, on each side from which access is afforded to a landing, be fitted with a gate, and in connection with every such gate efficient devices shall be provided to secure that when persons or goods are in the cage, the cage cannot be raised or lowered unless all the gates are closed, and will come to rest when a gate is opened;

in the case of a hoist or lift constructed or reconstructed after the passing of this Act, where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the platform or cage, each rope or chain and its attachments being capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices shall be provided and maintained which will support the platform or cage with its maximum working load in the event of a breakage of the ropes or chains or any of their

attachments.

(8) In the case of a hoist or lift not connected with mechanical power—

subsection (7) shall not apply; and

for subsection (4) the following subsection shall be substituted—

“(4) Any gate referred to in subsection (3) shall be kept closed and fastened except when the cage or platform is at rest at the landing”; and

(c) in subsection (2), for the reference to six months there shall be substituted a reference to twelve months.

Every hoistway or liftway inside a building constructed after the coming into operation of this section, being a hoistway or liftway which passes through two or more floors, shall, subject as hereafter in this subsection provided, be completely enclosed with fire-resisting materials, and all means of access to the hoist or lift shall be fitted with doors of fire-resisting materials; except that any such hoistway or liftway shall be enclosed at the top only by some material easily broken by fire, or be provided with a vent at the top.

For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage the direction of movement of which is restricted by a guide or guides.

If it is shown to the satisfaction of the chief inspector that it would be unreasonable in the special circumstances of the case to enforce any requirement of this section in respect of any class or description of hoist, lift, hoistway or liftway, he or she may by statutory order direct that such requirement shall not apply to that class or description.

## **28. Lifting gear.**

No lifting gear of whatever material shall be used unless it is of good construction, sound and suitable material, adequate strength, and free from patent defect, and is properly maintained.

No lifting gear used at any time to lift loads exceeding one hundredweight shall be used unless it has been tested and examined by or on behalf of the manufacturer or by an authorised person and a certificate of that test and examination, specifying the safe working load and signed by or on behalf of the manufacturer or by the authorised person, has been obtained and is kept available for inspection.

The provisions of subsection (2) shall not apply to fibre ropes or fibre rope slings.

Every lifting gear, except a rope or a rope sling, shall, unless of a class or description exempted by the chief inspector by statutory instrument, be annealed at least once in every fourteen months or, in the case of chains used in connection with molten metal or molten slag, in every six months, so however that lifting gear not in regular use need be annealed only when necessary.

No lifting gear shall be loaded beyond its safe working load except by an authorised person or an inspector for the purpose of testing the gear.

An inspector may at any time test any lifting gear and may prohibit its further use if not satisfied that it is safe for the use to which it is put.

The Government, an inspector or an authorised person shall not be liable for any damage done to any lifting gear in the course of any test.

In this section—

“lifting gear” means chains, ropes, chain slings, rope slings, rings, hooks, shackles, swivels and eyebolts;

“safe working load” means either that specified in the certificate of test obtained for the purposes of subsection (2), or, where no such certificate is required, the relevant safe working load marked or exhibited on the lifting gear, or where there is no such certificate or mark the safe working load as ascertained by a competent person.

## **29. Lifting appliances and lifting machines.**

(1) No lifting appliance or lifting machine shall be used unless— (a) it and every part of it, including all working gear and all plant or gear used for anchoring or fixing the appliance or machine, is of good mechanical construction, sound material, adequate strength and substance, and free from patent defect;

it is properly maintained; and

it has been tested and thoroughly examined by or on behalf of the manufacturer or by an authorised person and a certificate of that test and examination specifying the safe working load and signed by or on behalf of the manufacturer or by the authorised person has been obtained and is kept available for inspection.

Subsection (1)(c) shall not apply to any lifting appliance used only to lift weights of three

hundredweights or less.

Every crane, crab and winch shall be provided with a readily accessible and efficient brake or other safety device which will prevent the fall of the load when suspended and by which the load can be effectively controlled while being lowered.

Every hand winch shall be fitted with an efficient pawl capable of sustaining the safe working load.

Every lifting appliance and every lifting machine shall be plainly marked with its safe working load or loads and a distinctive number or other means of identification; except that in the case of a jib crane so constructed that the safe working load may be varied by the raising or lowering of the jib, there shall be attached to the jib crane so as to be clearly visible to the driver an accurate indicator showing the radius of the jib at any time and the safe working load corresponding to that radius.

No lifting appliance and no lifting machine shall be loaded beyond its safe working load except by an authorised person or an inspector for the purpose of testing the appliance or machine.

No lifting appliance having a safe working load of more than three hundredweights and no lifting machine shall be used unless the appliance or machine, as the case may be, and every part of the appliance or machine (including all working gear and all plant or gear used for anchoring or fixing the appliance or machine) has been thoroughly examined by an authorised person within an appropriate period determined by its construction and conditions of service and particulars of this examination have been entered in the register kept in accordance with section 30; but no such period shall exceed fourteen months or such longer period as the chief inspector may, by statutory instrument, appoint.

Every lifting appliance and every lifting machine shall be adequately and securely supported and every rope, chain or wire and every part of a stage, framework or other structure and every mast, beam, pole or other article of plant supporting any part of a lifting appliance or lifting machine shall be of good construction, sound materials and adequate strength having regard to the nature of the lifting appliance, its lifting and reaching capacity and the circumstances of its use.

All rails on which a travelling crane moves and every track on which the carriage of a transporter or runway moves shall be of proper size and adequate strength, and have an even running surface; and any such rails or track shall be properly laid, adequately supported or suspended, and properly maintained.

If any person is employed or working on or near the wheel tracks of an overhead travelling crane in any place where he or she would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

Without prejudice to subsection (10), if any person is employed or working in any place above floor level where he or she would be liable to be struck by an overhead travelling crane, or by any load carried by an overhead travelling crane, effective measures shall be taken to warn that person of the approach of the crane, unless his or her work is so connected with or dependent on the movements of the crane as to make a warning unnecessary.

A lifting machine shall not be operated except by a person trained and competent to operate that machine, except that it shall be permissible for such machine to be operated by a person who is under the direct supervision of a qualified person for the purpose of training; and no person under eighteen years of age shall be employed to operate any lifting machine driven by mechanical power or to give signals to the operator of any such machine.

An inspector may at any time test any lifting appliance or lifting machine and may prohibit its further use if not satisfied that it is safe for the use to which it is being put.

The Government, an inspector or an authorised person shall not be liable for any damage done to any

lifting appliance or lifting machine in the course of any test.

(15) In this section—

“lifting appliance” means a pulley block, gin wheel, chain block or set of chain blocks;

“lifting machine” means a crane, crab, winch, teagle, runway or transporter;

“safe working load” means either the relevant safe working load specified in the certificate of test obtained for the purposes of subsection (1), or where no such certificate is required, that marked on the lifting appliance or lifting machine, or where there is no such certificate or mark, the safe working load as ascertained by an authorised person.

### **30. Register of lifting gear, etc.**

A register containing the particulars set out in the Third Schedule to this Act shall be kept in the factory with respect to lifting gear, lifting appliances and lifting machines to which sections 28 and 29 apply.

### **31. Safe means of access and safe place of employment.**

All floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained and shall, so far as is reasonably practicable, be kept free from any obstruction and from any substance likely to cause persons to slip.

All openings in floors shall be securely fenced, except insofar as the nature of the work renders such fencing impracticable.

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, and every such place shall, so far as is reasonably practicable, be made and kept safe for any person working there.

For every staircase in a building or affording a means of exit from a building, a substantial handrail shall be provided and maintained, which, if the staircase has an open side, shall be on that side, and, in the case of a staircase having two open sides, such a handrail shall be provided and maintained on both sides.

Any open side of a staircase referred to in subsection (4) shall also be guarded by the provision and maintenance of a lower rail or other effective means.

All ladders shall be soundly constructed and properly maintained.

Sufficient clear and unobstructed space shall be maintained at every machine while in motion to enable the work to be carried on without unnecessary risk.

Where any person is to work at a place from which he or she will be liable to fall a distance more than six feet, six inches then, unless the place is one which affords secure foothold and, where necessary, secure handhold, means shall be provided so far as is reasonably practicable, by fencing or otherwise, for ensuring his or her safety.

Every teagle opening or similar doorway used for hoisting or lowering goods or materials, whether by mechanical power or otherwise, shall be securely fenced, and shall be provided with a secure handhold on each side of the opening or doorway.

The fencing referred to in subsection (8) shall be properly maintained and shall, except when the hoisting or lowering of goods or materials is being carried on at the opening or doorway, be kept in position.

Without prejudice to subsection (2), any excavation in the ground more than six feet deep shall, except when work is actually being carried on in it, be so covered or fenced as to prevent any person from accidentally falling in to it.

Every tank, reservoir, structure, sump, pit or hole of which the edge is less than three feet above the adjoining ground or platform and which contains liquid to a depth of four feet or more and into which a person may fall with the risk of drowning shall be so covered or fenced as to prevent any person from accidentally falling in to it.

### **32. Precautions in places where dangerous fumes are liable to be present.**

(1) Where work has to be done inside any chamber, tank, vat, pit, pipe, flue or other confined space, in which dangerous fumes are liable to be present—

the confined space shall be provided with adequate means of egress;

no person shall enter the confined space for any purpose unless the following requirements are complied with— (i) all practicable steps are taken to remove any fumes which

may be present and to prevent any ingress of fumes and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, the person entering shall wear a belt to which there is securely attached a rope of which the free end is held by a person outside; or (ii) the person entering wears a suitable breathing apparatus;

suitable breathing apparatus and a suitable reviving apparatus and suitable belts and ropes shall be provided and maintained so as to be readily accessible; and

a sufficient number of the persons employed shall be trained and practised in the use of that apparatus and in the method of restoring respiration.

(2) Without prejudice to subsection (1), a person shall not enter or remain in any chamber, tank, vat, pit, pipe, flue or similar confined space for any purpose unless he or she is—

ensured of a supply of air adequate for respiration and to render harmless any fumes; or

wearing a suitable breathing apparatus.

(3) The confined space shall, unless there is other adequate means of access, be provided with a manhole, which may be rectangular, oval or circular in shape, and shall be not less than eighteen inches long and sixteen inches wide or, if circular, not less than eighteen inches in diameter or, in the case of tank wagons and other mobile plant, not less than sixteen inches long and fourteen inches wide or, if circular, not less than sixteen inches in diameter.

### **33. Precautions with regard to explosive or inflammable dust, gas, vapour or substance.**

(1) Where, in connection with any grinding, sieving or other process giving rise to dust, there may escape dust of such a character and to such an extent as to be liable to explode on ignition, all practicable steps shall be taken to prevent such an explosion by enclosure of the plant used in the process, and by removal or prevention of accumulation of any dust that may escape in spite of the enclosure, and by exclusion or effective enclosure of possible sources of ignition.

Where there is present in any plant used in any process specified in subsection (1) dust of such a character and to such an extent as to be liable to explode on ignition, then, unless the plant is so constructed as to withstand the pressure likely to be produced by any such explosion, all practicable

steps shall be taken to restrict the spread and effects of such an explosion by the provision, in connection with the plant, of chokes, baffles and vents, or other equally effective appliances.

No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat, until all practicable steps have been taken to remove the substance and any fumes arising from the substance, or to render them nonexplosive or noninflammable; and if any plant, tank or vessel has been subjected to any such operation as aforesaid, no explosive or inflammable substance shall be allowed to enter the plant, tank or vessel until the metal has cooled sufficiently to prevent any risk of igniting the substance.

The chief inspector may by certificate in writing grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of subsection (3) in any case where he or she is satisfied that compliance with the requirement is unnecessary or impracticable.

### **34. Steam boilers.**

(1) Every steam boiler and all its fittings and attachments shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

(2) Every steam boiler, whether separate or one of a range—  
(a) shall have attached to it—

(i) a suitable safety valve (separate from and incapable of being isolated by any stop valve), which shall be so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure and shall be fixed directly to, or as close as practicable to, the boiler;

(ii) a suitable stop valve connecting the boiler to the steam pipe;

(iii) a correct steam pressure gauge, connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler in pounds per square inch and have marked upon it, in a distinctive colour, the maximum permissible working pressure;

(iv) at least one water gauge, of transparent material or other type approved by the chief inspector to show the water level in the boiler, and, if the gauge is of the glass tubular type and the working pressure in the boiler normally exceeds forty pounds per square inch, the gauge shall be provided with an efficient guard but not so as to obstruct the reading of the gauge;

(v) where it is one of two or more boilers, a plate bearing a distinctive number which shall be easily visible; and (b) shall be provided with—

(i) a means for attaching a test pressure gauge; and

(ii) a suitable fusible plug or an efficient low-water alarm device, except that paragraph (a)(ii) of this subsection shall not apply with respect to economisers, and paragraphs (a)(iii), (iv), (v), (b) and (c) of this subsection shall not apply with respect to either economisers or superheaters.

For the purposes of subsection (2), a lever valve shall not be deemed a suitable safety valve unless the weight is secured on the lever to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.

Any person attending a steam boiler shall be properly instructed as to his or her duties.

No person shall enter or be in any steam boiler which is one of a range of two or more steam boilers unless—

all inlets through which steam or hot water might otherwise enter the boiler from any other part of the

range are disconnected from that part; or

all valves or taps controlling such entry are closed and securely locked, and, where the boiler has a blowoff pipe in common with one or more other boilers or delivering into a common blowoff vessel or sump, the blowoff valve or tap on each such boiler is so

constructed that it can only be opened by a key which cannot be removed until the valve or tap is closed and is the only key in use for that set of blowoff valves or taps.

No work shall be permitted in any boiler furnace or boiler flue until it has been sufficiently cooled by ventilation or otherwise to make work safe for the persons employed.

Every steam boiler and all its fittings and attachments shall be thoroughly examined by an authorised person at least once in every period of fourteen months, or such longer periods as the chief inspector may, by statutory instrument, direct and also after any extensive repairs; except that the person making any such examination may specify in writing a period exceeding fourteen months but not exceeding twenty-four months within which the next examination is to be made.

(8) The following provisions shall apply to an examination under subsection (7) —

the boiler shall be examined when it is cold and the interior and the exterior have been prepared in the prescribed manner. The person making the examination may, in addition to the examination when cold, require the boiler to be examined by an authorised person when it is under normal steam pressure and in that case this latter examination shall be carried out as soon as possible after the examination when cold and in any case not later than such period after the examination when cold as shall be stated in the report on that examination;

whether or not an examination by an authorised person when the boiler is under normal steam pressure is required in accordance with paragraph (a) of this subsection, on the first occasion when steam is raised after an examination when cold has been carried out in accordance with such provisions a competent person shall inspect such fittings and attachments as shall have been required to be so inspected by the authorised person at the time of his or her carrying out the examination when cold and shall satisfy himself or herself, so far as is reasonably practicable, that they are in good working order and condition and that the safety valve is so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure; and

a certificate in the prescribed form, stating that the fittings and attachments required to be inspected in accordance with

paragraph (b) of this subsection were so inspected and that the safety valve was so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure, shall be completed forthwith by the person making the inspection and shall be signed and dated by that person and entered into or attached to the general register before the boiler is again taken into use.

A report of the result of every such examination, in the prescribed form and containing the prescribed particulars, including particulars of the maximum permissible working pressure and such other conditions as may be necessary for the safe working of the boiler, shall, as soon as practicable and in any case within twenty-eight days of the completion of the examination, be entered in or attached to the general register, and the report shall be signed by the person making the examination.

For the purposes of subsection (9) and the provisions of subsections (11) to (13) relating to reports of examinations, the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations.

No steam boiler which has previously been used shall be taken into use in any factory for the first time in that factory until it has been examined and reported on in accordance with subsections (7), (8) and

(9); and no new steam boiler shall be taken into use unless there has been obtained from an authorised person a certificate specifying the maximum permissible working pressure of the boiler and stating the nature of the tests to which the boiler and fittings have been submitted, and the certificate is kept available for inspection, and the boiler is so marked as to enable it to be identified as the boiler to which the certificate relates.

Where the report of any examination under this section specifies conditions for securing the safe working of a steam boiler, the boiler shall not be used except in accordance with those conditions.

In this Part of this Act, “maximum permissible working pressure” means in the case of a new steam boiler, that specified in the certificate referred to in subsection (11), and, in the case of a steam boiler which has been examined in accordance with this section, that specified in the report of the last examination.

### **35. Steam receivers and steam containers.**

Every steam receiver and all its fittings shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

Every steam receiver, not so constructed and maintained as to withstand with safety the maximum permissible working pressure of the boiler or the maximum pressure which can be obtained in the pipe connecting the receiver with any source of supply, shall be fitted with—

a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure of the receiver being exceeded;

a suitable safety valve so adjusted as to permit the steam to escape as soon as the safe working pressure is exceeded, or a suitable appliance for cutting off automatically the supply of steam as soon as the safe working pressure is exceeded;

a steam pressure gauge, which shall correctly indicate the pressure of steam in the receiver in pounds per square inch;

a suitable stop valve; and

except where only one steam receiver is in use, a plate bearing a distinctive number which shall be easily visible,

and the safety valve and pressure gauge shall be fitted either on the steam receiver or on the supply pipe between the receiver and the reducing valve or other appliance to prevent the safe working pressure from being exceeded.

For the purpose of the provisions of subsection (2), except paragraph (e), any set of receivers supplied with steam through a single pipe and forming part of a single machine may be treated as one receiver, and for the purpose of subsection (2), except paragraphs (d) and (e), any other set of receivers supplied with steam through a single pipe may be treated as one receiver; except that this subsection shall not apply to any such set of receivers unless the reducing valve or other appliance to prevent the safe working pressure being exceeded is fitted on the single pipe.

Every steam receiver and all its fittings shall be thoroughly examined by an authorised person, so far as the construction of the receiver permits, at least once in every period of twenty-six months or such longer period as the chief inspector may, by statutory instrument, direct.

A report of the result of every such examination in the prescribed form and containing the prescribed particulars, including particulars of the safe working pressure, shall be entered in or attached to the general register, and the report shall be signed by the person making the examination.

No steam receiver which has previously been used shall be taken into use in any factory for the first time in that factory until it has been examined and reported on in accordance with subsections (4) and (5); and no new steam receiver shall be taken into use unless there has been obtained from an authorised person, a certificate specifying the safe working pressure of the receiver and stating the nature of the tests to which the receiver and fittings have been submitted, and the certificate is kept available for inspection, and the receiver is so marked as to enable it to be identified as the receiver to which the certificate relates.

Every steam container shall be so maintained as to secure that the outlet is at all times kept open and free from obstruction.

In this section—

“safe working pressure” means, in the case of a new steam receiver, that specified in the certificate referred to in subsection (6), and in the case of a steam receiver which has been examined in accordance with this section, that specified in the report of the last examination;

“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.

### **36. Air receivers.**

(1) Every air receiver shall—

have marked upon it, so as to be plainly visible, the safe working pressure;

in the case of a receiver connected with an air compressing plant, either be so constructed as to withstand with safety the maximum

pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded;

be fitted with a suitable safety valve so adjusted as to permit the air to escape as soon as the safe working pressure is exceeded;

be fitted with an accurate pressure gauge indicating the pressure in the receiver in pounds per square inch;

be fitted with a suitable appliance for draining the receiver;

be provided with a suitable manhole, handhold or other means which will allow the interior to be thoroughly cleaned; and

in a case where more than one receiver is in use in the factory, bear a distinguishing mark which shall be easily visible.

For the purpose of the provisions of subsection (1) relating to safety valves and pressure gauges, any set of air receivers supplied with air through a single pipe may be treated as one receiver; except that in a case where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, this subsection shall not apply unless the valve or appliance is fitted on the single pipe.

Every air receiver and its fittings shall be of sound construction and properly maintained.

Every air receiver shall be thoroughly cleaned and examined at least once in every period of twenty-six months or such longer period as the Chief Inspector may, by statutory instrument, direct; except that in the case of a receiver of solid drawn construction—

the person making the examination may specify in writing a period exceeding twenty-six months but not exceeding four years within which the next examination is to be made; and

if it is so constructed that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of internal examination.

(5) Every examination and test required by subsection (4) shall be carried out by an authorised person, and a report of the result of every such examination and test, in the prescribed form and containing the prescribed particulars, including particulars of the safe working pressure, shall be entered in or attached to the general register, and the report shall be signed by the person making the examination or test.

No air receiver which has previously been used shall be taken into use in any factory for the first time in that factory until it has been examined and reported on in accordance with subsections (4) and (5); and no new air receiver shall be taken into use unless there has been obtained from an authorised person a certificate specifying the safe working pressure of the receiver and stating the nature of the tests to which the receiver and fittings have been submitted, and the certificate is kept available for inspection and the receiver is so marked as to enable it to be identified as the receiver to which the certificate refers.

In this section—

(a) “air receiver” means—

(i) 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; or (ii) any fixed vessel for containing compressed air or compressed exhaust gases and used for the purpose of starting an internal combustion engine;

(b) “safe working pressure” means, in the case of a new air receiver, that specified in the certificate mentioned in subsection (6) and, in the case of an air receiver which has been examined in accordance with subsections (4) and (5), that specified in the report of the result of the last examination.

### **37. Exceptions as to steam boilers, steam receivers, steam containers and air receivers.**

The chief inspector may, by statutory instrument, except from any of the provisions of sections 34, 35 and 36 any class or type of steam boiler, steam receiver, steam container or air receiver to which he or she is satisfied that the provision cannot reasonably be applied.

Any such exception may be unqualified or may be subject to such conditions as may be contained in the instrument.

### **38. Gas plant.**

(1) All gas plants shall be of sound construction and properly maintained.

The Minister may make rules specifying the nature of any gas plant that may be used and the type of fittings and pipes that may be used in any or all types of gas plant, and may in such rules make

provision for the inspection of gas plants and the prohibition of their use if they do not comply with or contravene any of the provisions of the rules.

For the purpose of this section—

“gas” means any combustible gas produced for the purpose of heating or lighting;

“gas plant” means any plant, apparatus or machine for generating gas, including any container holding compressed, dissolved or liquefied gas under pressure, and connected to a system of pipes intended to distribute the gas to two or more appliances or points and includes all pipes and appliances for storing the gas, or for conveying or regulating the flow of the gas to the places where it will be used, but excludes any such plant, apparatus, machine, pipes or appliances used solely in connection with a single private dwelling house.

### **39. Prevention of fire.**

In every factory there shall be provided and maintained, so as to be readily accessible, means for extinguishing fire, which shall be adequate and suitable having regard to the circumstances of each case.

All stocks of highly inflammable substances shall be kept either in a fire-resisting store or in a safe place outside any occupied building.

No store referred to in subsection (2) shall be so situated as to endanger the means of escape from the factory or from any part of the factory of persons employed in the factory in the event of a fire occurring in the store.

### **40. Safety provisions in case of fire.**

Every factory shall be provided with adequate means of escape in case of fire for the persons employed in the factory.

All means of escape referred to in subsection (1) shall be properly maintained and kept free from obstruction.

The contents of any room in which persons are employed shall be so arranged or disposed that there is a free passageway for all persons employed in the room to a means of escape in case of fire.

While any person is within a factory for the purpose of employment or meals, the doors of the factory, and of any room in the factory in which the person is, and any doors which afford a means of exit for persons employed in the factory from any building or from any enclosure in which the factory is situated, shall not be locked or fastened in such manner that they cannot be easily and immediately opened from the inside.

In the case of any factory constructed or converted for use as a factory after the coming into operation of this section, all doors affording means of exit from the factory for the persons employed in the factory shall, except in the case of sliding doors, be constructed to open outwards.

Every window, door or other exit affording means of escape in case of fire or giving access to that means of escape, other than the means of exit in ordinary use, shall be distinctively and conspicuously marked by a notice printed in red letters of an adequate size.

In every factory effective steps shall be taken to ensure that all the persons employed are familiar with the means of escape in case of fire, and with the routine to be followed in case of fire.

### **41. Power of inspector to make orders.**

If, in the opinion of an inspector, the use of any factory or any part of a factory or of any machinery, plant, appliance or fitting in the factory involves imminent danger of grave bodily injury, he or she may serve on the occupier of the factory an order in writing prohibiting the use of the factory until the danger is removed to the satisfaction of the inspector.

Any person aggrieved by an order under subsection (1) may by complaint to a magistrate's court apply for the order to be set aside or varied and at such application the inspector shall be entitled to be heard and the order shall continue to have effect unless it is set aside or varied by the court.

In the event of a failure in relation to any factory to comply with an order lawfully given under subsection (1), the occupier commits an offence and is liable on conviction, without prejudice to any other penalty, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both; and if the offence is continued after the conviction, the occupier commits a further offence and is liable in respect of that offence to a fine not exceeding one hundred shillings or to imprisonment for a term not exceeding seven days or to both such penalties for each day on which the offence was so continued.

#### **42. Power of court to make orders.**

(1) If on complaint by an inspector a magistrate's court is satisfied either—

that any factory or part of a factory is in such condition, or is so placed that any process or work carried on in it cannot be so carried on with due regard to the safety, health and welfare of persons employed; or

that any process or work is carried on or anything is or has been done in any factory in such a manner as to cause risk of bodily injury,  
the court may, as the case may require, by order—

prohibit the carrying on of any process or work either indefinitely or until such steps have been taken as may be specified in the order to enable the process or work to be carried on with due regard to the safety, healthy and welfare of persons employed; or

require the occupier of the factory to take such steps as may be specified in the order for remedying the danger complained of.

An order made by a magistrate's court under this section prohibiting the carrying on of any process or work may be revoked or varied on the application by way of complaint of the occupier or the owner of the factory; but on any such application an inspector shall be entitled to be heard.

In the event of a contravention in relation to any factory of an order of a magistrate's court made under this section, the occupier of the factory commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both; and if the contravention in respect of which the occupier was so convicted is continued after the conviction, the occupier commits a further offence and is liable in respect of that offence to a fine not exceeding one hundred shillings or to imprisonment for a term not exceeding seven days or to both such penalties for each day on which the offence was so continued.

#### **43. Appeal from orders made on complaint.**

Any person, including an inspector, aggrieved by an order made by a magistrate's court on determining a complaint under sections 41 and 42 may within thirty days of the date of the order appeal from it to the High Court.

The High Court may, if it thinks that the interests of justice so require, extend the time for appealing

under this section notwithstanding that the time for appealing has elapsed.

The Chief Justice may make rules governing such appeals prescribing the fees to be paid and the procedure to be followed.

#### PART VI—WELFARE (GENERAL PROVISIONS).

##### **44. Supply of drinking water.**

An adequate supply of wholesome drinking water shall be provided and maintained at suitable points conveniently accessible to all persons employed.

##### **45. Washing facilities.**

There shall be provided and maintained for the use of employed persons adequate and suitable facilities for washing, which shall be conveniently accessible and shall be kept in a clean and orderly condition.

##### **46. Exemption as to washing facilities.**

The chief inspector may by certificate in writing exempt any factory from the provisions of section 45.

##### **47. First aid.**

(1) There shall be provided and maintained so as to be readily accessible a first aid box or cupboard of the prescribed standard, and where more than one hundred and fifty persons are employed an additional box or cupboard for every additional one hundred and fifty persons.

(2) For the purposes of this section—

the number of persons employed in a factory shall be taken to be the largest number of persons employed in the factory at any one time, and any fraction of one hundred and fifty shall be reckoned as one hundred and fifty;

where the persons employed are employed in shifts, the calculation of the number employed shall be according to the largest number at work at any one time.

Nothing except appliances or requisites for first aid shall be kept in a first aid box or cupboard.

Each first aid box or cupboard shall be placed under the charge of responsible persons, one of whom shall always be readily available during working hours.

If an ambulance is provided at the factory and such arrangements are made as to ensure the immediate treatment there of all injuries occurring in the factory, the chief inspector may by certificate in writing exempt the factory from the requirements of this section to such extent and subject to such conditions as he or she may specify in the certificate.

#### PART VII—HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND RULES).

##### **48. Removal of dust or fumes.**

In every factory in which, in connection with any process carried on, there is given off any dust or fume or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the persons employed, or any substantial quantity of dust of any kind, all practicable measures shall be taken to protect the persons employed against inhalation of the dust or fume or other impurity and to prevent its accumulating in any workroom and, in particular, where the nature of the

process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust or fume or other impurity, so as to prevent it entering the air of any workroom.

No stationary internal combustion engine shall be used unless provision is made for conducting the exhaust gases from the engine into the open air.

#### **49. Meals in certain dangerous trades.**

Where in any room any poisonous or otherwise injurious substance is so used as to give rise to any dust or fume, no person shall be permitted to partake of food or drink in that room.

#### **50. Protective clothing and appliances.**

Where in any factory workers are employed in any process involving exposure to wet or to any injurious or offensive substance, suitable protective clothing and appliances, including where necessary, suitable gloves, footwear, goggles and head coverings, shall be provided and maintained for the use of such workers.

#### **51. Protection of eyes in certain processes.**

In the case of any of the processes specified in the Fourth Schedule to this Act, suitable goggles or effective screens shall be provided to protect the eyes of the persons employed in the process.

Where, in any factory, electric arc welding is carried on in such a manner as to involve risk of persons employed (other than persons employed in the welding process), being exposed to the electric arc flash, effective provision shall be made, by screening or otherwise, to prevent such exposure.

#### **52. Power to make rules and special rules.**

(1) The Minister may make rules in connection with the following matters or purposes—

the lighting, ventilation, temperature, humidity and hygiene in factories, the fixing of standards therefor, and the means, if any, required for removing impurities from the air in workrooms and for reducing excessive heat;

the fees to be paid in respect of any matter or thing done under this Act;

the control and disposal of any poisonous or noxious materials whether solid, liquid, gaseous, or vaporous;

generally for better carrying out this Act.

Where the Minister is satisfied that any manufacture, machinery, plant, equipment, appliance, process, material, method of storage or description of manual labour used in factories is of such a nature as to cause risk of bodily injury to the persons employed, he or she may, subject to the provisions contained in the Sixth Schedule to this Act, make such special rules as appear to him or her to be reasonably practicable and to meet the necessity of the case.

Special rules so made may, among other things—

prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, process, equipment, appliance, method of storage or description of manual labour;

prohibit, limit or control the use of any material, manufacture, machinery, plant, equipment, appliance, method of storage, description of manual labour or process; or

modify or extend with respect to any class or description of factory any of the provisions of Part IV, Part V, Part VI or this Part of this Act, being provisions imposing requirements as to health, safety or welfare.

Special rules made under this section may apply to all factories in which the manufacture, machinery, plant, equipment, appliance, process, material, method of storage, or description of manual labour is used or to any specified class or description of such factories and may provide for the exemption of any special class or description of factory either absolutely or subject to conditions.

Rules and special rules made under this section may impose duties on owners, employed persons and other persons as well as on occupiers.

### **53. Power to require medical supervision.**

(1) Where it appears to the Minister that in any factory or class or description of factory—

cases of illness have occurred which there is reason to believe may be due to the nature of a process or other conditions of work; or

there may be risk of injury to the health of persons employed in a factory by reason of any process or from any substance or

material used or handled in the factory or brought to the factory to be used, he or she may make special rules requiring the medical supervision or the medical examination of the persons, or any class of persons, employed at that factory or class or description of factory as may be specified in the rules.

The powers mentioned in subsection (1) may, in relation to a particular factory, be exercised by the Minister by order in writing instead of by special rules, and any such order shall cease to have effect at the expiration of such period not exceeding three months from the date when it comes into operation as may be specified in the order.

The Minister may by a subsequent order or orders in writing extend the period referred to in subsection (2), but if the occupier of a factory by notice in writing to the Minister objects to any such extension, the original order shall cease to have effect as from one month after the service of that notice, without prejudice to the making of special rules in relation to the factory.

The Sixth Schedule to this Act shall apply to any special rules made under this section.

### **54. Notification of accidents.**

The Minister may make rules in connection with the notification of accidents and cases of occupational disease and the notification of any class of explosion, fire, collapse of buildings or parts of buildings, accidents to machinery or plant or equipment, or other occurrence in a factory whether death or disablement is caused or not.

### **55. Power to take samples.**

An inspector may at any time after informing the occupier or, if the occupier is not readily available, a foreman or other responsible person in the factory, take for analysis sufficient samples of any substance used or intended to be used in a factory.

The occupier or the foreman or other responsible person in the factory 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 three parts, to mark and seal or fasten up each part in such manner as its nature permits, and—

to deliver one part to the occupier, or to the foreman or other responsible person;

to retain one part for future comparison; and

to submit one part to an analyst.

(3) It shall not be lawful for any person, except insofar as is necessary for the purposes of the investigation of or the prosecution for an offence under this Act, to publish or disclose to any person the results of an analysis made under this section; and if any person contravenes this subsection, he or she is liable to a fine not exceeding one thousand shillings.

## PART VIII—SPECIAL APPLICATIONS AND EXTENSIONS.

### **56. Premises where part of building is separate factory.**

(1) Where a part of a building is let off as a separate factory—

(a) the provisions of this Act hereafter in this paragraph mentioned shall apply to any part of the building used for the purposes of the factory but not comprised therein—

(i) the provisions of Part IV with respect to cleanliness and

lighting;

(ii) the provisions of Part V with respect to prime movers, water wheels, electric generators and motors, transmission machinery, hoists and lifts, lifting gear, lifting appliances and lifting machines, safe means of access and safe place of employment, steam boilers, steam receivers and steam containers, and air receivers, including the provisions as to exceptions as to steam boilers, steam receivers and steam containers and air receivers;

(iii) the provisions of Part V as to the power of an inspector to make orders and the power of a court to make orders,

and the owner of the building shall be responsible for any

contravention of the provisions mentioned in subparagraphs (i)

and (ii) of this paragraph;

(b) the owner of the building shall also be responsible, instead of the occupier of the factory, for any contravention as respects the factory of the provisions of Part IV of this Act with respect to sanitary conveniences and the provisions of Part V of this Act with respect to hoists and lifts, prevention of fire and safety provisions in case of fire, and, for the purposes of the last-named

provisions with respect to prevention of fire and safety provisions in case of fire, the factory shall be deemed to include any part of the building used for the purpose of the factory; (c) notwithstanding paragraph (b) of this subsection, the owner of the building shall be responsible for the cleanliness of sanitary conveniences only when used in common by several tenants, and shall be responsible for any contravention of any of the provisions of Part V of this Act only insofar as the provisions relate to matters within his or her control, and the occupier of the factory shall, in any case, be responsible for any contravention (whether as respects the factory or otherwise) of any of the provisions of Part V with respect to any machinery or plant belonging to or supplied by him or her.

In sections 41 and 42, as they apply in relation to the factory and as they are applied by subsection (1)(a)(iii), references to the occupier shall be taken as references to the occupier of the factory or to

the owner of the building, according to which of them is responsible in respect of the matters complained of.

For the purposes of the provisions applied by subsection (1), lifting appliances or machines attached to the outside of the building, and lifting gear used in connection with those appliances or machines, shall be treated as being in the building, but any lifting appliance or machine not used for the purposes of the factory and any lifting gear not used in connection with a lifting appliance or machine so used shall be disregarded.

Where, under subsection (1), any provision is applied containing a reference to the general register, then, in relation to matters in respect of which the owner of the building is responsible, that reference shall be taken as a reference to a register to be kept by him or her, and section 61(2) shall apply in relation to any such register as if the owner were the occupier of a factory.

### **57. Docks, wharves and quays.**

(1) The provisions of this Act mentioned in this subsection shall apply to every dock, wharf or quay as if it were a factory, and as if the person having the actual use or occupation of the dock, wharf or quay were the occupier of a factory—

(a) Part I;

Part II;

the provisions of Part V with respect to steam boilers, including the provisions as to exceptions as to steam boilers, so, however, that the owner of the boiler shall, instead of the person deemed to be the occupier, be responsible for any contravention of the provisions;

the provisions of Part V as to the power of an inspector to make orders and the power of a court to make orders;

the provisions of sections 52(1)(b), (2), (3), 53 and 54;

the provisions of Part IX subject to such modifications of the provisions with respect to general registers and preservation of registers and records as may be made by rules made by the labour commissioner;

the provisions of Part X with respect to powers and duties of inspectors and to rules and orders made under this Act;

(h) Part XI; (i) Part XII.

Subject as hereafter in this subsection provided, the provisions of this Act mentioned in subsection (1)(c) (subject to the modification mentioned in that paragraph) and in subsection (1)(b), (d), (e), (f), (g), (h) and (i) shall apply to the processes of loading, unloading, or coaling, of any ship in any dock or harbour, 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; except that the provisions of this Act mentioned in subsection (1)(c) and (d) shall not apply in relation to any such machinery or plant which is on board a ship and is the property of the ship owner.

For the purposes of subsection (2), “plant” includes any gangway or ladder used by any person employed to load or unload or coal a ship.

### **58. Premises in which a steam boiler, hoist, lift or gas plant is used.**

(1) The provisions of this Act mentioned in this subsection shall apply to any premises (not being

premises forming part of a factory or premises to which the application of this Act is otherwise extended by this Part of this Act), other than a single private dwelling house, in which a steam boiler, a hoist, a lift or a gas plant is used, as if the premises were a factory and as if the person having the actual use or occupation of the premises were the occupier of a factory—

Part I;

Part II;

the provisions of sections 27, 34, 35, 37, 38, 41, 42 and 43 of Part V so, however, that the owner of the hoist or lift, steam boiler, steam receiver or steam container or gas plant shall be responsible for any contravention of those provisions insofar as they relate to matters not within the control of the person deemed to be the occupier;

(d)

(e) (f)

the provisions of Part V as to the power of an inspector to make orders and the power of the court to make orders; the provisions of sections 52(1)(b), (2), (3) and 54; the provisions of Part IX subject to such modifications of the provisions with respect to general registers and preservation of registers and records as may be made by rules made by the labour commissioner;

(g)

the provisions of Part X with respect to powers and duties of inspectors and to rules and orders made under this Act;

(h) Part XI; (i) Part XII.

If a steam boiler or gas plant is newly taken into use in any premises (not being premises forming part of a factory), the occupier shall, within one month after the date upon which the boiler or gas plant is first used, send to the chief inspector a written notice containing the particulars set out in the Fifth Schedule to this Act.

If a hoist or lift is newly taken into use in any premises (not being premises forming part of a factory), the occupier shall, within one month after the date upon which the hoist or lift is first used, send to the chief inspector a written notice containing the particulars set out in the Seventh Schedule to this Act.

(4) Where any premises mentioned in subsection (1), (2) or (3) are in the occupation of more than one person, the provisions of those subsections (insofar as they relate to hoists, lifts and gas plants) shall apply as if the owner of the premises, instead of the person having the actual use or occupation of the premises, were the occupier.

### **59. Special rules in respect of building operations, etc.**

(1) The Minister may make special rules in regard to health, safety and welfare in respect of the following classes of premises, operations and works described in this subsection and in respect of any manufacture, machinery, plant, equipment, appliance, material, process, method of storage or description of manual labour used in those premises, operations and works—

warehouses and cotton buying stores not forming part of a factory;

building operations undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and any line or siding which is used in connection with those building operations and for the purposes of them and is not part of a railway; and

works of engineering construction undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and any line or siding which is used in connection with those works of engineering construction and for the purposes of them and is not part of a railway.

Rules made under subsection (1) may apply any of the provisions of this Act to the class of premises, operations and works mentioned in them and to any manufacture, machinery, plant, equipment, appliance, material, process, method of storage or description of manual labour used in the premises, operations and works.

The provisions of the Sixth Schedule to this Act shall apply to any special rules made under this section.

## PART IX—MISCELLANEOUS.

### **60. Examination where authorised person not available.**

(1) In respect of any periodical examination required by this Act to be carried out by an authorised person, in the event of that examination not having been done within the specified period by reason of the occupier or owner not having been able to arrange for an authorised person to carry out that examination, he or she shall forthwith notify the chief inspector by registered post of the circumstances and shall give particulars of the machinery or plant concerned and of the date of the last examination carried out as required by this Act and by whom it was carried out.

After the notification under subsection (1) and until thirty days after the chief inspector has notified the occupier or owner, as the case may be, of an authorised person who has agreed to carry out the examination within the next thirty days, the occupier or owner, as the case may be, shall not be guilty of an offence by reason only of the contravention of the particular provision requiring that examination.

Where any occupier or owner has been unable to arrange for an authorised person to carry out any examination required for the issuing of any of the certificates for which section 34, 35 or 36 make provision in respect of any new steam boiler, steam receiver or air receiver, he or she shall notify the chief inspector by registered post of the circumstances and shall send with the notification any certificate furnished by the manufacturer of the steam boiler, steam receiver or air receiver, as the case may be.

On receipt of the notification and manufacturer's certificate, if any, and after such further inquiry as he or she may direct, the chief inspector may, by notice in writing in the prescribed form, permit the use of the steam boiler, steam receiver or air receiver, subject to such conditions as he or she may specify in the notice, and the notice shall be entered into or attached to the general register.

After the notice under subsection (4), and until thirty days after the chief inspector has notified the occupier or owner, as the case may be, of an authorised person who has agreed to carry out the examination within the next thirty days, the occupier or owner, as the case may be, shall not be guilty of an offence by reason only of the contravention of the particular provisions requiring such certificate.

### **61. General registers.**

(1) There shall be kept available for inspection in every factory a register, in the prescribed form, called the general register, and there shall be entered in or attached to that register—

the certificate of registration of the factory;

every other certificate issued in respect of the factory by the chief inspector under this Act;

the prescribed particulars as to every accident and case of occupational disease occurring in the factory of which notice is

required to be sent to a labour officer under any law for the time being in force in Uganda or required to be sent to an inspector under any rules made under section 54;

all reports and particulars required by any other provisions of this Act to be entered in or attached to the general register; and

such other matters as may be prescribed.

The occupier of a factory shall send to an inspector such extracts from the general register as the inspector may from time to time require for the purpose of the execution of his or her duties under this Act.

Notwithstanding the provisions of this section, in the case of temporary factories of any class or description where it appears to the Minister that it is inappropriate or unnecessary to require compliance with any of the provisions of subsection (1), he or she may by statutory order direct that any of those provisions shall not apply to temporary factories of that class or description.

## **62. Preservation of registers and records.**

The general register and every other register or record kept in pursuance of this Act shall be preserved and shall be kept available for inspection by an inspector for at least five years, or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the register or record.

## **63. Duties of persons employed.**

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.

## **64. Persons employed not to cause danger.**

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.

## **65. Prohibition of deductions from wages.**

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 he or she has contracted to pay to any person employed, or receive, or allow any person in his or her employment to receive, any payment from any such person.

## **PART X—ADMINISTRATION.**

### **66. Administration of Act.**

The labour commissioner shall be responsible for the administration of this Act.

### **67. Appointment of inspectors.**

Subject to any written law relating to the appointment of persons to the public service, there shall be appointed a chief inspector and such other inspectors and officers as are necessary for the purposes of this Act.

Notice of the appointment of every inspector shall be published in the Gazette.

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 so required, produce the certificate to the occupier or other person holding a responsible position of management at the factory.

An inspector shall treat as confidential the source of any complaint bringing to his or her notice a contravention of any of the provisions of this Act and shall give no intimation to the occupier or his or her representative that a visit of inspection was made in consequence of such complaint.

Any person who contravenes subsection (4) commits an offence under this Act.

### **68. Powers of inspectors.**

(1) Any inspector shall, for the purpose of the execution of this Act, have power to do all or any of the following things—

to enter, inspect and examine, by day or by night, a factory, and every part of it, when he or she has reasonable cause to believe that any person is employed in it, 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, and to exercise such powers as may be necessary to inspect and examine any machinery, plant, appliance, or fitting in it;

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;

to require the production of the registers, certificates, notices and documents kept in pursuance of this Act and to inspect, examine and copy any of them;

to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act, and of the enactments for the time being in force relating to public health, are complied with, so far as they relate to a factory and any persons employed in a factory;

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;

to examine, either alone or in the presence of any other person, as he or she thinks fit, any person, with respect to matters under this Act, and to require every such person to be 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;

in the case of an inspector who is a registered 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) The occupier of every factory, his or her agents and his or her servants 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 power under this Act in relation to that factory.

If any person wilfully delays an inspector in the exercise of any power under this section, or fails to comply with the requisition of an inspector in pursuance of this section or to produce any register, certificate, notice or document which he or she is required by or in pursuance of this Act to produce, or wilfully withholds any information as to who is the occupier of any factory, or conceals or prevents or attempts to conceal or prevent, a person from appearing before or being examined by an inspector, that person shall be deemed to obstruct an inspector in the execution of his or her duties under this

Act.

Where an inspector is obstructed in the execution of his or her powers or duties under this Act, the person obstructing the inspector commits an offence and is liable to a fine not exceeding six hundred shillings or, in default of payment, to imprisonment for a term not exceeding three months; and where an inspector is so obstructed in a factory, the occupier of that factory commits an offence.

Any certificate or notice issued by the chief inspector under this Act may be issued for a limited period or without limit of period and may be varied or revoked by the chief inspector or his or her successor in office.

Subsection (5) shall not apply to any certificate of registration of a factory issued by the chief inspector under Part III of this Act except as otherwise provided in that Part.

### **69. Power of inspector to conduct proceedings before a magistrate's court.**

An inspector may prosecute or conduct before a magistrate's court any charge, information, complaint or other proceeding arising under this Act, or in the discharge of his or her duty as an inspector.

It shall not be an objection to the competency of an inspector to give evidence as a witness in any prosecution for an offence against this Act, that the prosecution is brought at the inspector's instance, or conducted by him or her.

### **70. Provisions as to rules and orders made under this Act.**

All rules made under this Act shall have the same force and effect as if they had been enacted in this Act; such rules, other than—

special rules made under sections 23(2), 52, 53 and 59; and

rules made by the Chief Justice under section 43, shall be laid before Parliament at the first meeting after the publication of the rules in the Gazette and shall remain in force until revoked or amended by a resolution of Parliament when they shall cease to have effect or shall have effect in their amended form, as the case may be, but without prejudice to the validity of anything done under the rules prior to their revocation or amendment.

## **PART XI—OFFENCES, PENALTIES AND LEGAL PROCEEDINGS.**

### **71. Offences and penalties.**

In the event of any contravention in, or in connection with, or in relation to a factory of the provisions of this Act, 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 hereafter in this Act provided, commits an offence.

In the event of a contravention by an employed person of the provisions of Part IX of this Act with respect to duties of persons employed, or of a contravention by any person of any order or statutory instrument 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, does not commit an offence by reason only of the contravention of those provisions of Part IX of this Act, or the contravention of the provision imposing the duty, as the case may be, unless it is proved that he or she failed to take all reasonable steps to prevent the contravention; but this subsection shall not be taken as affecting any liability of the occupier or owner in respect of the same matters by virtue of some provision other than the provisions or provision aforesaid.

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 this Act.

If any persons are employed in a factory otherwise than in accordance with this Act, there shall be deemed to be a separate contravention in respect of each person so employed.

Where an offence under this Act committed by a company, cooperative 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, cooperative society or other body of persons, he or she, as well as the company, cooperative society or other body of persons, shall be deemed to commit an offence and is liable to be proceeded against and punished accordingly.

#### **72. Penalty for offences for which no express penalty provided.**

Subject as hereafter in this Act provided, any person who commits an offence under this Act for which no express penalty is provided by this Act is liable to a fine not exceeding six hundred shillings or, in default of payment, to imprisonment for a term not exceeding three months, or to both such penalties, and, if the contravention in respect of which he or she was so convicted is continued after the conviction, he or she, subject to section 73, commits a further offence and is liable to a fine not exceeding one hundred shillings for each day on which the contravention was so continued.

#### **73. Power of court to order cause of contravention to be remedied.**

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 imposing any penalty, 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 is not 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 order, the order is not complied with, the occupier or owner, as the case may be, is liable to a fine not exceeding one hundred shillings for each day on which the noncompliance continues.

#### **74. Penalty in case of death or injury.**

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, the occupier or owner of the factory is liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both such penalties; 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 court may determine; but—

in the case of injury to health, the occupier or owner is not liable to a penalty under this section unless the injury was caused directly by the contravention; and

the occupier or owner is not liable to a penalty under this section if a charge against him or her under this Act in respect of the act or default by which the death or injury was caused has been heard and dismissed before the death or injury occurred.

#### **75. Forgery of certificates, false entries and false declarations.**

If any person—

forges or counterfeits any certificate required by, under, or for the purposes of, this Act;

gives or signs any such certificate knowing it to be false in any material particular;

knowingly utters or makes use of any such certificate so forged, counterfeited, or false as aforesaid;

knowingly utters or makes use of, as applying to any person, any such certificate which does not so apply;

personates any person named in any such certificate;

falsely pretends to be an inspector;

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; (i) wilfully makes or signs a false declaration required by, under or

for the purposes of, this Act; or (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 is liable to imprisonment for a period not exceeding three years.

**76. Trade secrets not to be revealed.**

Every person having any official duty under or being employed in the administration of this Act shall treat as secret and confidential any manufacturing or commercial secret which may come to his or her knowledge in the course of his or her duty.

Any person who discloses to any person any matter in contravention of subsection (1) whether having still any official duty under or being employed in the administration of this Act or not, unless the disclosure was made in the performance of his or her duty, commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to a period of imprisonment not exceeding six months or to both such fine and imprisonment.

**77. Penalty on persons actually committing offence for which occupier is liable.**

Where an act or default for which an occupier or owner of a factory 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 penalty as if he or she were the occupier or owner, as the case may be.

**78. Owner of machine liable in certain cases instead of occupier.**

Where in a factory any person (being a person other than the occupier of the factory or a person employed) uses for the purposes of construction, repair, installation or other work any machine, appliance, equipment or plant which is owned or hired by him or her, that person shall, in respect of any contravention of any provision of this Act in relation to that machine, appliance, equipment or plant, be deemed to be the occupier.

**79. Power of occupier or owner to exempt self from liability.**

(1) Where the occupier or owner of a factory who is charged with an offence under this Act proves to the satisfaction of the court that he or she has used all due diligence to enforce the execution of this Act and that the offence was due to the act or default of some other person who committed it without his or her consent, connivance or wilful default, he or she shall be acquitted of the offence.

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

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;

by what person the offence has been committed; and

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.

(3) In determining for the purposes of Part V of this Act with respect to prime movers, transmission machinery and other machinery, whether any part of the machinery is in such a position as to be as safe to every person employed or working on the premises as it would be if securely fenced, no account shall be taken of any approach to the part if it can be shown to the satisfaction of the court—

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;

that the approach has been made without the consent, connivance or wilful default of the occupier or owner and in contravention of his or her orders; and

that the act of approach was of such a nature as to amount to serious and wilful misconduct on the part of the person doing the act.

### **80. Proceedings against persons other than occupiers or owners.**

Where, under this Act, any person is substituted for the occupier or owner of a factory 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 required or authorised, as the case may be, to be served on or taken in relation to that person.

### **81. Prosecution of offences.**

(1) All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered, in a magistrate's court presided over by a chief magistrate or a magistrate grade I.

In any proceedings under this Act, it shall be sufficient in the charge or 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, the title of the firm, and the burden of proving that the premises are not a factory, or that the occupier specified in the charge or information is not the occupier of the factory, shall lie upon the person alleging such fact.

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, 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.

### **82. Special provisions as to evidence.**

Where any entry is required by this Act to be made in the general register or in any other register or record, 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 fact stated in it, and the fact that any entry so required with respect to the observance of any provision of this Act has not been made shall be admissible as evidence that the provision has not been observed.

Without prejudice to section 103 of the Magistrates Courts Act where any article or any specimen or sample of any article is submitted for examination or analysis to a prescribed institution, any document

purporting to be a report of the examination or analysis made on behalf of that institution may be used as evidence in any inquiry, trial or other proceedings relating to any contravention of the provisions of this Act; and the court may presume that the signature to any such document is genuine and that the person signing it acted on behalf of the prescribed institution for which he or she professed to act at the time when he or she signed it.

In subsection (2), “prescribed institution” means any department, organisation, institute or other body of an expert of scientific character prescribed by the Minister by statutory instrument.

Any certificate, document, stamp or mark purporting to describe the accuracy, verification or true calibration of any instrument and purporting to be a certificate, document, stamp or mark issued by or on behalf of the National Physical Laboratory in the United Kingdom or the Board of Trade in the United Kingdom or the Materials Branch of the Ministry of Works of Kenya or the manufacturer of the instrument shall be admissible as evidence of the fact stated in it, and the court may presume that any such certificate, document, stamp or mark is genuine.

### **83. Service and sending of documents, etc.**

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

on any person by delivering it to him or her, or by leaving it at, or sending it by registered post to, his or her residence;

on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by registered post to, an office of the firm;

on the occupier or owner of a factory (including any such owner or occupier being a company to which the Companies Act applies or a cooperative society to which the Cooperative Societies Act, applies), in any such manner as aforesaid or by delivering it, or a true copy of it, to the manager, foreman or other responsible person at the factory.

Any such document may be addressed, for the purpose of the service of the document on the occupier of a factory, to “the occupier” followed by a description of the factory sufficient to identify it without further name or description.

Subsections (1) and (2) shall apply, with the necessary modifications, to documents required or authorised under this Act to be sent to any person, firm, occupier or owner, and to the sending, addressing and delivery of those documents.

### **84. Power to modify agreements.**

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 in order to conform with any standard or requirement imposed by or under this Act, he or she may apply to a judge in chambers for the terms of the agreement to be set aside or modified; and the judge, after hearing the parties and any witnesses whom they may desire to call, may make such an order setting aside or modifying the terms of the agreement as he or she considers just and equitable in the circumstances of the case.

### **85. Power to apportion expenses.**

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 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 to a judge in chambers for the expenses of the alterations to be apportioned between them; and the judge, 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 he or she 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, he or she may, at the request of the owner or occupier, determine the lease.

## PART XII—GENERAL.

### **86. Factories Advisory Board.**

For the purpose of giving advice and assistance in regard to matters affecting safety, health and welfare in factories and such other places as are subject to the provisions of this Act, there shall be established a board to be called the Factories Advisory Board of such composition and such constitution as the Minister shall by statutory instrument appoint.

The Minister may appoint such other advisory panels as he or she shall from time to time think fit for the purpose of giving advice or assistance in regard to any particular industry, process, hazard, injury or disease.

Every person appointed to the Factories Advisory Board or to an advisory panel under this section shall hold office for such period as may be specified by the Minister in their respective appointments.

### **87. Saving.**

Except where otherwise 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.

Any order, rule, special rule, notice, requirement, appointment, approval, authorisation, report or agreement made, or certificate, permit or notice given under any provision of this Act prior to its amendment by the Factories (Amendment) Act, 1963, and which was in force at the commencement of that Act shall continue in force and shall have effect as though it had been made or given under that provision as amended by that Act, and insofar as it could have been made under that provision shall be deemed to have been made or given thereunder, and any such instrument which continues in force by virtue of this subsection may, insofar as may be necessary to bring it into conformity with this Act as amended, be varied or revoked by the Minister by statutory order.

## SCHEDULES

### *s. 7. First Schedule.*

#### **Particulars to be submitted when applying for the registration of a factory or a change in the registered occupier.**

The name, postal address and telephone number, if any, of the occupier or intending occupier.

A precise description of the location of the factory.

The nature of the work or industry to be carried on in the factory.

Whether mechanical power is to be used and, if so, its nature (*steam engine, electric motors, oil engine, etc.*).

Whether steam boilers are to be used; if so, the following particulars in respect of each boiler—  
type, description and distinctive number;

country and year of manufacture when possible;

date of last thorough examination and name of person by whom the examination was made;

the maximum permissible working pressure in pounds per square inch.

The total number of persons of each sex to be employed in the factory; and where persons are to be employed in shifts, the maximum number to be employed in the factory at any one time.

The date on which it is expected to operate the factory or to change the occupier.

*Second Schedule.*

s. 7.

**Certificate of Registration of a Factory.**

*The Factories Act.*

No. of certificate

Date of issue

I certify that the factory named below has been duly registered in pursuance of section of the Factories Act.

Name of occupier

Postal address of occupier

Location of factory

Nature of work carried on

Chief Inspector

*Third Schedule.*

s. 30.

**Register of lifting gear, lifting appliances and lifting machines.**

*(A separate page to be used for each lifting gear, lifting appliance or lifting machine).*

*To be entered on the cover of the register.*

The number of the certificate of registration of the factory.

Signature of occupier or occupier's representative.

*To be entered on each page.*

Description of gear, appliance or machine.

Distinctive number or other means of identification.

Date when first taken into use in the factory.

Date and number of the certificate of test and examination required by section 28(2) or section

29(1)(c) and the name and address of person who issued the certificate.

Date of each examination required by section 29(7), the name of the person who carried it out, particulars of any defect found and the steps to remedy the defect.

Date of each annealing or other heat treatment required by section 28(4) and by whom it was carried out.

*Fourth Schedule.*

s. 51.

**Processes requiring provision of suitable goggles or effective screens.**

Dry grinding of metals, or articles of metal, by a revolving wheel or disc driven by mechanical power at which a person or persons is or are regularly employed.

Turning (external or internal) of nonferrous metals, or of cast iron, or of articles of such metals or such iron, where the work is done dry, other than precision turning where the use of goggles or a screen would seriously interfere with the work, or turning by means of hand tools.

Welding or cutting of metals by means of an electrical, oxyacetylene or similar process.

The following processes when carried on by means of hand tools or other portable tools—

fettling of metal castings involving the removal of metal;

cutting out or cutting off (not including drilling or punching back) of cold rivets or bolts from boilers or other plant or from ships;

chipping or scaling of boilers or ships' plates;

breaking or dressing of stone, concrete or slag.

*Fifth Schedule.*

s. 58.

**Particulars to be submitted by occupiers of premises (other than a factory) in which a steam boiler or gas plant is used.**

Name of the occupier of the premises.

Postal address and telephone number, if any, of the occupier.

Precise location of the premises.

Nature of the work carried on in the premises.

The following particulars in respect of each steam boiler or any gas plant in use—

type, description and distinctive number;

country and year of manufacture, where known;

date of the last thorough examination and name of the person by whom the examination was made;

maximum permissible working pressure in pounds per square inch;

in the case of gas plant the type of gas manufactured or used and the cubic capacity of any gas holder.

*Sixth Schedule.*

ss. 23, 52, 53, 59.

**Procedure for making special rules.**

When it is proposed to make any special rules the Minister shall publish in the Gazette notice of the proposal to make the rules and of the time (which shall not be less than sixty days) within which any objection made with respect to the draft rules by or on behalf of the person affected must be sent to the labour commissioner. He shall also, at the same time, cause to be published the draft rules as a special supplement to the Gazette.

Every objection must be in writing and state—

the specific grounds for objection; and

in general terms the omissions, additions or modifications asked for.

3. The labour commissioner shall consider any objection made by or on behalf of any persons which is sent to him or her within the required time, and shall cause such discussions as he or she thinks fit to be held

with the persons making the objections with a view to the clarification, modification or withdrawal of any objection. When such discussions have been concluded the labour commissioner shall submit to the Minister a list of the objections received by him or her and a report on the results of the discussions which he or she shall have caused to be held with the persons making the objections.

The Minister shall consider the matter and may amend the draft rules as he or she thinks fit. The Minister may either make the special rules in accordance with the original or the amended draft or cause the amended draft to be treated as an original draft for the purpose of this Schedule.

Where draft rules have been amended by the Minister and the Minister proposes to deal with the amended rules as an original draft and to subject those rules to the procedure set out in this Schedule, it shall be necessary for the Minister to cause to be published such only of the draft rules as have been so amended, and the period during which objection may be made to the amended draft rules may be reduced to not less than thirty days.

*Seventh Schedule.*

s. 58.

**Particulars to be submitted by occupiers of premises (other than a factory) in which a hoist or lift is used.**

The name, postal address and telephone number, if any, of the occupier.

A precise description of the location of the premises.

The type of premises (*offices, shops, etc.*).

Description of the hoist or lift—

whether goods only, passengers only or goods and passengers;

the maker;

the maker's number;

the date of installation;

how operated (*mechanical power, hydraulic power or manually*);

the number of floors served;

the maximum working load which it can safely carry.

**History:** Cap. 198; S.I. 135/1968, s. 2.

### Cross References

Companies Act, Cap. 110. Cooperative Societies Act, Cap. 112. Drainage and Sanitary Rules.  
Factories (Amendment) Act, Act 7/1963. Magistrates Courts Act, Cap. 16. Mining Act, Cap. 148.

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