



# Factories Act 1961

## 1961 CHAPTER 34

### PART XIV

#### INTERPRETATION AND GENERAL

##### *Interpretation*

#### **175 Interpretation of expression "factory"**

- (1) Subject to the provisions of this section, the expression "factory" means any premises in which, or within the close or curtilage or precincts of which, persons are employed in manual labour in any process for or incidental to any of the following purposes, namely:—
- (a) the making of any article or of part of any article ; or
  - (b) the altering, repairing, ornamenting, finishing, cleaning, or washing or the breaking up or demolition of any article; or
  - (c) the adapting for sale of any article;
  - (d) the slaughtering of cattle, sheep, swine, goats, horses, asses or mules; or
  - (e) the confinement of such animals as aforesaid while awaiting slaughter at other premises, in a case where the place of confinement is available in connection with those other premises, is not maintained primarily for agricultural purposes within the meaning of the Agriculture Act, 1947, or, as the case may be, the Agriculture (Scotland) Act, 1948, and does not form part of premises used for the holding of a market in respect of such animals;
- being premises in which, or within the close or curtilage or precincts of which, the work is carried on by way of trade or for purposes of gain and to or over which the employer of the persons employed therein has the right of access or control.
- (2) The expression "factory" also includes the following premises in which persons are employed in manual labour (whether or not they are factories by virtue of subsection (1) of this section), that is to say.—
- (a) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;

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- (b) any premises in which the business of sorting any articles is carried on as a preliminary to the work carried on in any factory or incidentally to the purposes of any factory;
  - (c) any premises in which the business of washing or filling bottles or containers or packing articles is carried on incidentally to the purposes of any factory;
  - (d) any premises in which the business of hooking, plaiting, lapping, making-up or packing of yarn or cloth is carried on;
  - (e) any laundry carried on as ancillary to another business, or incidentally to the purposes of any public institution ;
  - (f) except as provided in subsection (10) of this section, any premises in which the construction, reconstruction or repair of locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking or other industrial or commercial undertaking;
  - (g) any premises in which printing by letterpress, lithography, photogravure, or other similar process, or bookbinding is carried on by way of trade or for purposes of gain or incidentally to another business so carried on;
  - (h) any premises in which the making, adaptation or repair of dresses, scenery or properties is carried on incidentally to the production, exhibition or presentation by way of trade or for purposes of gain of cinematograph films or theatrical performances, not being a stage or dressing-room of a theatre in which only occasional adaptations or repairs are made;
  - (j) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry;
  - (k) any premises in which mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain ;
  - (l) any premises in which the production of cinematograph films is carried on by way of trade or for purposes of gain, so, however, that the employment at any such premises of theatrical - performers within the meaning of the Theatrical Employers Registration Act, 1925, and of attendants on such theatrical performers shall not be deemed to be employment in a factory ;
  - (m) any premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction, not being premises in which such operations or works are being carried on;
  - (n) any premises used for the storage of gas in a gasholder having a storage capacity of not less than five thousand cubic feet.
- (3) Any line or siding (not being part of a railway or tramway) which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory; and if any such line or siding is used in connection with more than one factory belonging to different occupiers, the line or siding shall be deemed to be a separate factory.
- (4) A part of a factory may, with the approval in writing of the chief inspector, be taken to be a separate factory and two or more factories may, with the like approval, be taken to be a single factory.
- (5) Any workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would constitute the workplace a factory if the persons working therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Act, and, in the case of any such workplace not being a tenement factory or part of a tenement factory, the provisions of this Act shall apply as if the owner or occupier of

the workplace were the occupier of the factory and the persons working therein were persons employed in the factory.

- (6) Where a place situate within the close, curtilage, or precincts forming a factory is solely used for some purpose other than the processes carried on in the factory, that place shall not be deemed to form part of the factory for the purposes of this Act, but shall, if otherwise it would be a factory, be deemed to be a separate factory.
- (7) Premises shall not be excluded from the definition of a factory by reason only that they are open air premises.
- (8) Where the Minister by regulations so directs as respects all or any purposes of this Act, different branches or departments of work carried on in the same factory shall be deemed to be different factories.
- (9) Any premises belonging to or in the occupation of the Crown or any municipal or other public authority shall not be deemed not to be a factory, and building operations or works of engineering construction undertaken by or on behalf of the Crown or any such authority shall not be excluded from the operation of this Act, by reason only that the work carried on thereat is not carried on by way of trade or for purposes of gain.
- (10) Premises used for the purpose of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out shall not be deemed to be a factory by reason only of paragraph (f) of subsection (2) of this section, unless they are premises used for the purposes of a railway undertaking where running repairs to locomotives are carried out.

## **176 General interpretation**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—
  - " bakehouse " means any place in which bread, biscuits or confectionery is or are baked by way of trade or for purposes of gain;
  - " bank holiday " means a holiday under the Holidays Extension Act, 1875;
  - " bodily injury " includes injury to health ;
  - " building operation " means the construction, structural alteration, repair or maintenance of a building (including re-pointing, re-decoration 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;
  - " calendar year " means the period of twelve months beginning with the first day of January in any year;
  - " chief inspector " means the chief inspector appointed under this Act, and includes a deputy chief inspector;
  - " child " means any person who is not for the purposes of the Education Act, 1944, over compulsory school age (or for the purposes of the Education (Scotland) Act, 1946, over school age); , " class or description ", in relation to factories, includes a group of factories described by reference to locality;
  - " contravention " includes, in relation to any provision, a failure to comply with that provision, and the expression " contravene " shall be construed accordingly ;

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

" degrees " means degrees Fahrenheit;

" district council " means, as respects England and Wales, the council of a borough or county district, and, as respects Scotland, the council of a county or the town council of a burgh;

" driving-belt " includes any driving strap or rope ;

" fume " includes gas or vapour;

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

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

" inspector " means, except where otherwise expressed, an inspector appointed under this Act, and a reference to the inspector for the district or to the superintending inspector for the division refers, as respects any factory, to the inspector in charge of the district, or the superintending inspector in charge of the division, in which the factory is situate;

" machinery " includes any driving-belt;

" magistrates' court " has the same meaning as in the Magistrates' Courts Act, 1952;

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

" the Minister " means the Minister of Labour ;

" owner "—

(a) as respects England and Wales, means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for another person, or who would so receive the rackrent if the premises were let at a rackrent; and

(b) as respects Scotland, means the person for the time entitled to receive or who would, if the same were let, be entitled to receive, the rents of the premises, and includes a trustee, factor, tutor or curator, and in the case of public or municipal property, applies to the persons to whom the management thereof is entrusted;

" parent " means a parent or guardian of, or person having the legal custody of, or the control over, a child or young person, and includes, in relation to any child or young person, any person having direct benefit from his wages;

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

" prescribed " means prescribed by order of the Minister;

" prime mover " means every engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source;

" process " includes the use of any locomotive;

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

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" railway company " includes the British Transport Commission and a company or person working a railway under lease or otherwise;

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

" special regulations " means regulations with respect to which the Fourth Schedule to this Act has effect;

" ship ", " vessel ", and " harbour " have the same meanings as in the Merchant Shipping Act, 1894;

" tenement factory " means any premises where mechanical power from any prime mover within the close or curtilage of the premises is distributed for use in manufacturing processes to different parts of the same premises occupied by different persons in such manner that those parts constitute in law separate factories;

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

" transmission machinery " means every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance;

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

" woman " means a woman who has attained the age of eighteen;

" work of engineering construction " means the construction of any railway line or siding otherwise than upon an existing railway, and the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipe-line, aqueduct, sewer, sewage works, or gasholder, except where carried on upon a railway or tramway, and includes such other works as may be specified by regulations of the Minister;

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

- (2) For the purposes of this Act, machinery or plant shall be deemed to have been constructed or reconstructed, and a factory or building to have been constructed, reconstructed, extended, added to, or converted for use as a factory, before any date, if the construction, reconstruction, extension, addition, or conversion was begun before that date.
- (3) For the purposes of this Act, a factory shall not be deemed to be a factory in which mechanical power is used by reason only that mechanical power is used for the purpose of heating, ventilating or lighting the workrooms or other parts of the factory.
- (4) A woman, young person, or child who works in a factory, whether for wages or not, either in a process or in cleaning any part of the factory used for any process, or in cleaning or oiling any part of the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise the subject of the process therein, shall, save as is otherwise provided by this Act, be deemed to be employed therein for the purposes of this Act or of any proceedings thereunder, except that a woman employed solely in cleaning a factory or any part thereof, otherwise than in cleaning which is incidental to or connected with any process, shall not be deemed for the purposes of Part VI of this Act to be employed in the factory.

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- (5) A young person who works in a factory, whether for wages or not, in collecting, carrying or delivering goods, carrying messages or running errands shall be deemed to be employed in the factory for the purposes of this Act or of any proceedings thereunder, but the provisions of Part VI of this Act shall not apply, except as expressly provided, to any such young person who is employed mainly outside the factory.
- (6) For the purposes of this Act, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.
- (7) For the purposes of this Act, an apprentice shall be deemed to be a person employed.
- (8) This Act shall in its application to London have effect as if for references to district councils there were substituted, as respects the City of London references to the common council, and as respects the remainder of the administrative county of London, references to metropolitan borough councils.
- (9) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

### *General*

#### **177 Promotion of health, safety and welfare**

- (1) The Minister shall promote health, safety and welfare in factories and premises and operations to which this Act applies by collecting and disseminating information and by investigating or assisting in the investigation of problems of health, safety and welfare; and for the purpose of investigating such problems he may provide and maintain such laboratories and other services as appear to him requisite.
- (2) The Minister may appoint persons to advise him in connection with his functions under this section and may pay to any such person such travelling and other allowances, including compensation for loss of remunerative time, as he may with the approval of the Treasury determine.

#### **178 Certificates of birth**

- (1) Where the age of any person is required to be ascertained or proved for the purposes of this Act, any person shall, on presenting a written requisition in such form and containing such particulars as the Minister of Housing and Local Government or, as respects Scotland, the Secretary of State may by regulations prescribe and on payment of a fee of sixpence, be entitled to obtain a certified extract under the hand of a registrar or superintendent registrar of births and deaths of the entry in the register under the Births and Deaths Registration Act, 1953, or the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1938, Of the birth of that person.
- (2) A form of such a requisition shall on request be supplied without charge by every superintendent registrar and registrar of births and deaths.

#### **179 Inspection of certain premises**

Where in any premises which are subject to inspection by or under the authority of any Government department any manual labour is exercised, otherwise than for the purposes of instruction, in or incidental to the making, altering, repairing,

ornamenting, finishing, washing, cleaning, or adapting for sale, of any article, and the premises do not constitute a factory, the Minister may arrange with the department that the premises shall, as respects the matters dealt with by this Act, be inspected by an inspector appointed under this Act, and where such an arrangement is made, such inspectors shall have, as respects such matters as aforesaid, the like right of entry and inspection as is conferred on inspectors or other officers of the department concerned.

## **180 Regulations, rules and orders**

- (1) Any regulations, rules or orders made under this Act shall be made by statutory instrument, except an order applicable only to particular persons, premises, boilers, employment, operations or work or to persons employed at particular premises or on work supervised from particular premises.
- (2) Any statutory instrument containing regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make regulations, rules or orders shall include power to make different provisions in relation to different circumstances.
- (4) Any power conferred by this Act to make an order shall include power to revoke such an order by a subsequent order.
- (5) Any power conferred by the provisions of this Act specified in the first column of the Third Schedule to this Act to prescribe standards as to the matters mentioned in the second column of that Schedule may be exercised either—
  - (a) so that conformity to the prescribed standard is to be both obligatory and a sufficient compliance with the requirements of this Act for the purposes of which the standard is prescribed; or
  - (b) so that conformity to the prescribed standard is to be obligatory, but is not necessarily to be taken as a sufficient compliance with those requirements.
- (6) Any power conferred by this Act to prescribe standards or impose requirements shall include power to do so by reference to the approval of the chief inspector.
- (7) Any power to make regulations, rules or orders conferring or providing for exemptions from any requirement of this Act or of an instrument made thereunder shall include power to provide for particular exemptions to be granted, either unconditionally or subject to conditions, by an inspector, and a power to impose any requirement by an instrument under this Act shall include power to provide for exemptions from the requirement in special circumstances.
- (8) Where this Act provides for its enforcement with respect to any matters by some other officer than an inspector, then with respect to those matters subsection (7) of this section shall have effect with the substitution of a reference to that officer for the reference to an inspector.
- (9) Any regulations or order made by the Minister under this Act may be made for a limited period or without limit of period and may be made subject to such conditions as he thinks fit, and may contain such supplemental and consequential provisions as he considers necessary for giving full effect to the regulations or order.
- (10) The provisions of the Fourth Schedule to this Act shall have effect with respect to regulations referred to in this Act as special regulations.

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### **181 Substitution of corresponding provisions for certain provisions of Factory and Workshop Act, 1901**

- (1) The provisions contained in the Fifth Schedule to this Act (being provisions of the Factory and Workshop Act, 1901, which do not apply in England outside the administrative county of London, set out with the necessary modifications) shall have effect in Scotland and in the administrative county of London in lieu of the corresponding provisions repealed by the Factories Act, 1937, and shall be enforced by the district council.
- (2) Section ten of this Act shall apply with respect to those provisions as it applies with respect to the provisions of Part I of this Act, except that references in that section to the Minister and to an inspector shall, for the purposes of the application thereof under this section, be construed as references to the Minister of Housing and Local Government (or, in Scotland, the Secretary of State) and to an officer appointed by him, and any such officer shall have the like powers as an inspector.
- (3) In this section, section ten of this Act as applied by this section, and the Fifth Schedule to this Act, as they apply in Scotland, "district council" means a county council or the town council of a large burgh; and for the purposes of those provisions a small burgh shall be included within the county in which it is situate.

### **182 General application to Scotland**

- (1) The provisions of this section shall, in addition to any express provision for the application to Scotland of any provision of this Act, have effect for the general application of this Act to Scotland.
- (2) In this Act the expressions " large burgh " and " small burgh " have the like meanings as in the Local Government (Scotland) Act, 1947.
- (3) All matters required by this Act to be published in the London Gazette shall, if they relate to Scotland, be published in the Edinburgh Gazette either in addition or in substitution, as the case may require.
- (4) Any offence against this Act for which the maximum penalty that may be imposed does not exceed ten pounds may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act, 1954, having jurisdiction in the place where the offence was committed.
- (5) The district council responsible for enforcing any provision of this Act may prosecute in respect of any offence against such a provision committed within their district, and may appear in any proceedings instituted by them under this Act by their clerk or other officer duly authorised in that behalf.
- (6) It shall not be an objection to the competency of an inspector or of any person prosecuting in pursuance of the power conferred by subsection (5) of this section to give evidence as a witness in any prosecution for an offence against this Act that the prosecution is brought at his instance, or conducted by him.
- (7) Every person convicted of an offence against this Act may be found liable in expenses.
- (8) Section twenty-nine of the Public Health (Scotland) Act, 1897, shall not apply in relation to any factory within the meaning of this Act.



- (9) The powers conferred by this Act on county and town councils and their officers shall, for the purposes of their duties under the Public Health (Scotland) Act, 1897, extend to factories within the meaning of that Act.

**183 Transitional provisions and repeals**

- (1) This Act shall have effect subject to the provisions of the Sixth Schedule to this Act.
- (2) The enactments specified in the Seventh Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**184 Construction of references in other enactments to factories and workshops, etc. and exclusion of certain provisions of Public Health (London) Act, 1936**

- (1) Nothing in this Act shall affect the definition of the expressions " factory " and " workshop " for the purposes of the Rating and Valuation (Apportionment) Act, 1928, but save as aforesaid references in any enactment to a factory or workshop within the meaning of the Factory and Workshop Acts, 1901 to 1929, or any of those Acts, shall be construed as references, to a factory within the meaning of this Act.
- (2) References in any enactment to an examining surgeon appointed under the Factories Act, 1937, shall be construed as references to a person appointed under section one hundred and fifty-one of this Act.
- (3) Section one hundred and six of the Public Health (London) Act, 1936 (which relates to sanitary conveniences for factories), section one hundred and twenty-eight of that Act (which relates to nuisances from certain factories, workshops and work places), and section one hundred and twenty-nine of that Act (which relates to lime-washing and washing of certain factories, workshops and work places) shall not apply to any factory to which this Act applies.

**185 Short title, commencement and extent**

- (1) This Act may be cited as the Factories Act, 1961.
- (2) This Act shall come into force on the first day of April, nineteen hundred and sixty-two.
- (3) This Act, except subsections (1) and (2) of section seventy-seven and so much of section one hundred and eighty-three and the Seventh Schedule as repeals the provisions replaced by those subsections, does not extend to Northern Ireland.