



Factories Act 1937

1937 CHAPTER 67

PART XI

ADMINISTRATION

122 Appointment and duties of inspectors and clerks and servants

- (1) The Secretary of State, with the approval of the Treasury as to numbers and salaries, may appoint such inspectors (under whatever title he may from time to time determine) and such clerks and servants as he thinks necessary for the execution of this Act, and may assign to them their duties and award them their salaries, and may appoint a chief inspector with an office in London, and may regulate the cases and manner in which the inspectors, or any of them, are to execute and perform the powers and duties of inspectors under this Act, and may remove such inspectors, clerks, and servants.
- (2) In the appointment of inspectors of factories in Wales and Monmouthshire, among candidates otherwise equally qualified, persons having a knowledge of the Welsh language shall be preferred.
- (3) Notice of the appointment of every inspector shall be published in the London Gazette.
- (4) The salaries of the inspectors, clerks, and servants, and the expenses incurred by them shall be deemed to be expenses of the Secretary of State in carrying this Act into effect.
- (5) A person who is the occupier of a factory, or is directly or indirectly interested therein or in any process or business carried on therein, or in a patent connected therewith, or is employed in or about a factory, shall not act as an inspector.
- (6) An inspector shall not be liable to serve on any jury.
- (7) Such annual report of the proceedings of the inspectors as the Secretary of State directs shall be laid before both Houses of Parliament.
- (8) Any notice or other document required by this Act to be sent to an inspector shall be sent to such inspector as the Secretary of State directs by declaration published in the

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London Gazette or otherwise as he thinks expedient for making the direction known to all persons interested.

123 Powers of inspectors

- (1) An inspector shall, for the purpose of the execution of this Act, have power to do all or any of the following things, that is to say:—
 - (a) to enter, inspect, and examine at all reasonable times, by day and night, a factory, and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he 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 has reasonable cause to believe that explosive or highly inflammable materials are stored or used;
 - (b) to take with him a constable if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
 - (c) 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;
 - (d) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act and the enactments for the time being in force relating to public health are complied with, so far as respects a factory and any persons employed in a factory and any young persons to whom section ninety-eight of this Act applies;
 - (e) to require any person whom he finds in a factory to give such information as it is in his power to give as to who is the occupier of the factory;
 - (f) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or in any employment mentioned in subsection (1) of the said section ninety-eight, and to require every such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined; so, however, that no one shall be required under this provision to answer any question or to give any evidence tending to criminate himself;
 - (g) in the case of an inspector who is a duly qualified medical practitioner, to carry out such medical examinations as may be necessary for the purposes of his 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 agents and 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 powers under this Act in relation to that factory.
- (3) 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 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 duties under this Act.

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- (4) Where an inspector is obstructed in the execution of his powers or duties under this Act, the person obstructing him shall be guilty of an offence, and liable to a fine not exceeding five pounds; and where an inspector is so obstructed in a factory, the occupier of that factory shall be guilty of an offence.
- (5) Any certificate issued by a chief inspector, superintending inspector for a division, or an inspector for a district may be issued for a limited period or without limit of period and may be varied or revoked by that inspector or his successor in office.

124 Power of inspector to conduct proceedings before magistrates

An inspector, if so authorised in writing under the hand of the Secretary of State, may, although he is not of counsel, or a solicitor, prosecute, conduct, or defend before a court of summary jurisdiction or justice, any information, complaint, or other proceeding arising under this Act, or in the discharge of his duty as inspector.

125 Certificate of appointment of inspector

Every inspector shall be furnished with the prescribed certificate of his appointment, and when visiting a factory or place to which any of the provisions of this Act apply shall, if so required, produce the said certificate to the occupier or other person holding a responsible position of management at the factory.

126 Appointment and duties of examining surgeons

- (1) Subject to any general directions of the Secretary of State, the chief inspector or, in cases where the Secretary of State so directs, a superintending inspector for a division may appoint a sufficient number of duly qualified medical practitioners to be examining surgeons for any of the purposes of this Act, and may revoke any such appointment.
- (2) Every appointment and revocation of appointment of an examining surgeon may be annulled by the Secretary of State upon appeal to him for that purpose.
- (3) A medical practitioner who is the occupier of a factory, or is directly or indirectly interested therein, or in any process or business carried on therein, or in a patent connected therewith, shall not act as examining surgeon for that factory :

Provided that the Secretary of State may authorise a medical practitioner who is employed by the occupier of the factory in connection with the medical supervision of persons employed in the factory, but is not otherwise interested in the factory, to act as examining surgeon for that factory for the purpose of examining and certifying the fitness of young persons.

- (4) The examining surgeon for any factory shall have power at all reasonable times to inspect the general register of that factory.
- (5) The Secretary of State may make rules regulating the duties of examining surgeons.
- (6) An examining surgeon shall, if so directed by the Secretary of State, make such special inquiry and examination of employed persons as may be directed.

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- (7) Every examining surgeon shall in each year make at the prescribed time a report in the prescribed form to the Secretary of State as to examinations made and other duties performed by him in pursuance of this Act.
- (8) If and so long as there is no examining surgeon for a factory, the poor law medical officer for the district in which the factory is situate shall act as the examining surgeon for that factory.
- (9) References in the Workmen's Compensation Act, 1925, to a certifying surgeon shall be construed as references to an examining surgeon appointed under this section, and references to the certifying surgeon for the district in which the workman is employed shall, in a case where a workman is employed in a district for which no examining surgeon is appointed, be construed as references to the medical practitioner (if any) appointed by the Secretary of State to have the powers and duties of a certifying surgeon under Part II of the Workmen's Compensation Act, 1925, in such a case or, if no such appointment has been made, to the poor law medical officer for the district in which the workman is employed.

127 Fees of examining surgeons

The fees to be paid to examining surgeons for carrying out their duties under this Act shall, so far as they relate to any examination or certificate with respect to the fitness of a young person for employment in a factory or to any examination or medical supervision of persons employed in a factory carried out in pursuance of regulations or an order under this Act, be paid by the occupier of that factory, and in any other case shall be defrayed as an expense of carrying this Act into effect, and the fees shall, subject to any agreement between the examining surgeon and the occupier of a factory as respects the fees payable by the occupier, be of such amount as may be determined by the Secretary of State.

128 Provisions as to county and district councils

- (1) The expenses of the London County Council under this Act shall be defrayed as expenses for general county purposes.
- (2) The expenses under this Act of the common council of the City of London and of the council of a metropolitan borough shall be defrayed as part of their general expenses.
- (3) The medical officer of health of every district council shall—
 - (a) in his annual report to the council report specifically on the administration of, and furnish the prescribed particulars with respect to, the matters under Part I and Part VIII of this Act which are administered by the district council, and shall send a copy of his annual report or so much of it as deals with those matters to the Secretary of State; and
 - (b) give written notice to the inspector for the district of any factory coming to his knowledge in which no abstract of this Act is affixed in accordance with this Act.
- (4) An officer of any district council appointed for the purpose of inspection of factories shall give a written notice to the inspector for the district of any factory coming to his knowledge in which no abstract of this Act is affixed in accordance with this Act.

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- (5) For the purpose of their duties under this Act, a county council and a district council and their officers shall, without prejudice to their other powers, have all such powers of entry, inspection, taking legal proceedings, or otherwise, as an inspector has, and accordingly in relation to their said duties the provisions of this Act as to furnishing means required by an inspector, and delaying or obstructing an inspector, shall be construed as including references to such officers; but no such powers of entry or inspection shall be exercised except by officers of the council authorised by them in writing in that behalf, either generally or specially, and any such officer shall if so required produce his authority to the occupier or other person holding a responsible position of management at the factory.
- (6) If any person who, in pursuance of powers conferred by the last foregoing subsection, is admitted into any factory or place discloses to any person any information obtained by him in the factory or place with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

129 Provisions as to regulations and orders of Secretary of State

- (1) The following provisions shall apply to regulations and orders made by the Secretary of State under this Act:—
- (a) all regulations made under this Act shall be laid as soon as may be before Parliament, and if either House within the next twenty-eight days on which that House has sat after the regulations have been laid before it, resolves that the regulations be annulled, the regulations shall be of no effect, but without prejudice to the validity of anything done in the meantime thereunder or to the making of new regulations :
 - (b) the provisions contained in the Second Schedule to this Act shall apply to all such regulations as are in this Act referred to as " special regulations " :
 - (c) section one of the Rules Publication Act, 1893, c.66 shall not apply to any instrument made under this Act except regulations other than special regulations.
- (2) Any regulations or order made by the Secretary of State 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 and may, except as herein otherwise expressly provided, be varied or revoked by subsequent regulations or by a subsequent order made in like manner as the original regulations or order.