



Factories Act 1937

1937 CHAPTER 67

PART XII

SUPPLEMENTARY

Offences, Penalties and Legal Proceedings

137 Power of occupier or owner to exempt himself from liability on conviction of the actual offender

(1) Where the occupier or owner of a factory is charged with an offence under this Act, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or owner of the factory proves to the satisfaction of the court—

- (a) that he has used all due diligence to enforce the execution of this Act and of any relevant order or regulation made thereunder; and
- (b) that the said other person had committed the offence in question without his consent, connivance, or wilful default,

that other person shall be summarily convicted of the offence, and the occupier or owner shall not be guilty of the offence, and the person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings. The prosecution shall have the right in any such case to cross-examine the occupier or owner if he gives evidence and any witnesses called by him in support of his charge, and to call rebutting evidence.

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

- (a) 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; and
- (b) by what person the offence has been committed; and

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(c) that it has been committed without the consent, connivance or wilful default of the occupier or owner and in contravention of his orders, the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or owner of the factory.