



Employment Medical Advisory Service Act 1972

1972 CHAPTER 28

An act to provide for the establishment by the Secretary of State of an employment medical advisory service, to amend the Factories Act 1961 in relation to medical arrangements and related matters and in relation to the obstruction of inspectors, and for purposes connected therewith. [11th May, 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:”

Employment Medical Advisory Service

1 Establishment, organization and functions of employment medical advisory service

- (1) The Secretary of State shall establish and maintain an employment medical advisory service for the purpose of securing that he and others concerned with the health of employed persons, and of persons training for employment, can be kept informed of, and adequately advised on, matters of which they ought respectively to take cognisance concerning the safeguarding and improvement of the health of those persons, and for other purposes of his functions relating to employment; and to that end he shall, with the approval of the Minister for the Civil Service as to numbers, appoint persons to be employment medical advisers.
- (2) The Secretary of State may also, for the purposes mentioned in subsection (1) above, and for the purpose of assisting employment medical advisers in the performance of their functions, investigate or assist in the investigation of problems arising in connection with any such matters as are so mentioned or otherwise in connection with the functions of employment medical advisers, and for the purpose of investigating

such problems may provide and maintain such laboratories and other services as appear to him to be requisite.

- (3) A person shall not be qualified to be appointed, or to be, an employment medical adviser unless he is a fully registered medical practitioner.
- (4) The Secretary of State may appoint one of the employment medical advisers as chief employment medical adviser, and one or more of them as deputy chief employment medical adviser, and may determine the cases and circumstances in which they or any of them are to perform the duties or exercise the powers conferred on employment medical advisers by or under this Act or otherwise.
- (5) An employment medical adviser shall have, for the performance of his functions, power to do all such things as an inspector under the Factories Act 1961 has, for the purpose of the execution of that Act, power to do under so much of section 146(1) and section 147 of that Act as is set out in Part I of Schedule 1 to this Act; and—
 - (a) in relation to any exercise of the powers conferred by this subsection so much of section 146(2) to (4) of that Act as is so set out shall have effect, with the substitution of a reference to an employment medical adviser for any reference to an inspector, as it has effect in relation to an exercise of the corresponding powers conferred by that Act, and in section 147 of that Act as it has effect in relation to employment medical advisers the reference to section 146(2) to (4) shall apply accordingly; and
 - (b) an employment medical adviser authorised by the Secretary of State to exercise the powers conferred by this subsection shall be furnished by the Secretary of State with a certificate of his authority and, when exercising those powers, shall, if required so to do, produce the certificate.

References above in this subsection to any provision of the Factories Act 1961 are to be taken to include references to it as extended by the provisions of Part VII of that Act listed in Part II of Schedule 1 to this Act (which in relation to the places or processes described in column 2 in that Part of the Schedule give the Factories Act 1961 or parts of it an application extending beyond factories).

- (6) It shall be the duty of every local education authority or, in Scotland, education authority to arrange for one of their officers who is a fully registered medical practitioner to furnish, on the application of an employment medical adviser, such particulars of the school medical record of a person who has not attained the age of eighteen and such other information relating to his medical history as the adviser may reasonably require for the efficient performance of his functions; but no particulars or information about any person which may be furnished to an adviser in pursuance of this subsection shall (without the consent of that person) be disclosed by the adviser otherwise than for the efficient performance of his functions.
- (7) The Secretary of State may pay—
 - (a) to employment medical advisers such salaries or such fees and travelling or other allowances ; and
 - (b) to other persons called upon to give advice in connection with the execution of his functions under this section such travelling or other allowances or compensation for loss of remunerative time ; and
 - (c) to persons attending for medical examinations conducted by, or in accordance with arrangements made by, employment medical advisers (including pathological, physiological and radiological tests and similar investigations so

conducted) such travelling or subsistence allowances or such compensation for loss of earnings;

as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

- (8) Any expenses of the Secretary of State under this section shall be defrayed out of moneys provided by Parliament.
- (9) In subsection (1) above the reference to persons training for employment shall include persons attending industrial rehabilitation courses provided under section 3(1) of the Disabled Persons (Employment) Act 1944 or under arrangements made under that section, and the reference to those (other than the Secretary of State) concerned with the health of employed persons and of persons training for employment shall be taken to include organisations of employers or employed persons and associations of such organisations.

Amendments of Factories Act 1961

2 General amendments

- (1) The position and functions of appointed factory doctors are hereby abolished ; but the provisions of the Factories Act 1961 mentioned in column 1 of Schedule 2 to this Act shall have effect subject to the amendments respectively specified in relation thereto in column 2.
- (2) Section 146(1)(g) of the Factories Act 1961 (by which an inspector, if a fully registered medical practitioner, is empowered to carry out medical examinations necessary for his duties under that Act) shall cease to have effect.
- (3) In section 180 (6) of the Factories Act 1961 (power to prescribe standards or impose requirements by reference to approval of chief inspector) after the words " of the chief inspector " there shall be added the words " or of the chief employment medical adviser or a deputy chief employment medical adviser ".

3 Medical examinations of persons employed in factories

The Factories Act 1961 shall have effect as if the following section were inserted after section 10 thereof:—

- (1) If an employment medical adviser is of opinion that there ought, on grounds mentioned in subsection (2) below, to be a medical examination of a person or persons employed in a factory, he may serve on the occupier of the factory a written notice stating that he is of that opinion and requiring that the occupier shall permit a medical examination in accordance with this section of the person or persons in question, and the examination shall be permitted accordingly.
- (2) The grounds on which a medical examination of a person may be required by an employment medical adviser's notice under subsection (1) above are that (in the adviser's opinion) the person's health has been or is being injured, or it is possible that it has been, is being or will be injured, by reason of the nature of the work he is or has been called upon to do or may (to the adviser's knowledge) be called upon to do; and a notice under that subsection may be given with respect to one or more named persons or to persons of a class or description specified in the notice.

- (3) A notice under subsection (1) above shall name the place where the medical examination is to be conducted and, if it is a place other than the factory, the day on which and the time at which it is to be begun; and—
- (a) every person to whom the notice relates shall be informed, as soon as practicable after service thereof, of the contents thereof and of the fact that he is free to attend for the purpose of submitting to the examination ; and
 - (b) if the notice states that the examination is to be conducted at the factory, suitable accommodation thereat shall be provided for (the conduct of the examination.
- (4) A medical examination conducted in pursuance of a notice under subsection (1) above shall be begun within seven days after the day on which the notice is served, and shall be conducted by, or in accordance with arrangements made by, an employment medical adviser, and take place at a reasonable time during working hours.
- (5) An employment medical adviser may, by written notice served on the occupier of a factory, cancel a notice served on the occupier under subsection (1) above; and a notice which relates to two or more named persons may be cancelled either in relation to them all or in relation to any one or more of them.
- (6) In this section, ' medical examination ' includes pathological, physiological and radiological tests and similar investigations”.

4 Employment of women and young persons in processes involving the use of lead compounds

- (1) For subsection (2) of section 75 of the Factories Act 1961 (which prohibits the employment in any process involving the use of lead compounds of a woman or young person who has been suspended after medical examination from employment in any such process on the ground that continuance therein would involve special danger to health) there shall be substituted the following subsection:—
- “(2) If, in the case of a woman or young person who is employed in a factory in a process involving the use of lead compounds, an employment medical adviser serves on the occupier of the factory a written notice stating that, in the opinion of the adviser, the continued employment of that woman or young person in that process would involve special danger to her or his health, it shall not be lawful for that woman or young person to be employed in any such process in that factory, unless the notice has been cancelled by a further written notice served on the occupier by an employment medical adviser”.
- (2) Where, at the commencement of this Act, a person's employment is unlawful under section 75(2) of the Factories Act 1961 (as originally enacted) or under that subsection as extended by section 128 of that Act, and is known to be so by the occupier of the factory or, if the employment is not in a factory, by the employer, then there shall be deemed to have been served on that occupier or employer immediately after that commencement by an employment medical adviser, under the subsection substituted for section 75(2) by subsection (1) above, a written notice stating that, in the opinion of the adviser, the continued employment of that person in that process would involve special danger to his health.

5 Duty of factory occupier to give notice of employment of a young person

(1) The Factories Act 1961 shall have effect as if the following section were inserted at the end of Part VI thereof:—

(1) Where the occupier of a factory takes a young person into his employment to work in the factory (or transfers to work in the factory from work elsewhere than in a factory a young person already in his employment), the occupier shall, not later than seven days after the day on which he does so, send to the local careers office a written notice stating the name of the occupier, the address of the factory and the fact of the young person's having been so taken or transferred, and the date on which, and the work to do which, he was so taken or transferred, and giving such of the following information as is within the occupier's knowledge, namely:—

- (a) the young person's Christian name (or forename) and surname;
- (b) the date of his birth ;
- (c) his usual residential address ; and
- (d) the name and address of the school (if any) which he last attended before he was so taken or transferred.

(2) In this section—

- (a) ' the local careers office' means the local careers office maintained under the Employment and Training Act 1948 for the area in which the factory is situated, whether the office is maintained by the Secretary of State under section 2 or by a local education authority (within the meaning of that Act) in accordance with section 10 ; and
- (b) 'school' means a school within the meaning of the Education Act 1944 or the Education (Scotland) Act 1962.”.

(2) There shall be paid out of moneys provided by Parliament any addition attributable to this section to the sums so payable under the Employment and Training Act 1948.

6 Fees for medical examinations or supervision conducted or exercised under Factories Act 1961

(1) For work done by a person in conducting or exercising, pursuant to the Factories Act 1961 or orders or regulations thereunder, medical examinations or medical supervision there shall—

- (a) if that person is an employment medical adviser, be payable to the Secretary of State by the employer of the persons examined or supervised such fees as may be fixed by order of the Secretary of State;
- (b) if that person is other than such an adviser, be payable to that person by that employer such fees as may be agreed between them or, in default of agreement, as may be so fixed.

(2) Different fees may be fixed by order under this section for examinations and supervision of different kinds and for examinations conducted in different places.

(3) An order under this section shall be made by statutory instrument and may be varied or revoked by a subsequent order so made.

(4) In this section, " medical examination " includes pathological, physiological and radiological tests and similar investigations, and the reference to persons examined shall be construed accordingly.

- (5) Sums received under this section by the Secretary of State shall be paid into the Consolidated Fund.

7 Obstruction of inspector or employment medical adviser

Any person convicted of an offence under section 146(4) of the Factories Act 1961 (obstruction of inspector), or under that subsection as it applies in relation to an employment medical adviser by virtue of section 1(5) above, shall be liable to a fine not exceeding £100 (and section 156 of that Act shall not apply).

8 Supplementary

- (1) The Factories Act 1961 shall have effect as if the sections 10A and 119A inserted therein by this Act were included among the provisions mentioned in that Act in section 125(2) and (3)(a) (docks etc.), section 126(2) (ships) and section 127(2) (building operations and works of engineering construction), but subject to the following qualifications:—
- (a) neither section 10A nor section 119A shall by virtue of their inclusion in section 125(3)(a) (loading, unloading and coaling of ships) be applied to a member of the crew of a ship ; and
 - (b) where section 119A applies by virtue of its inclusion in section 125(3)(a), 126(2) or 127(2), the notice under section 119A(1) shall state as the address of the factory the place where the young person works.
- (2) The Secretary of State may by order (made by statutory instrument)—
- (a) make such amendments of orders and regulations made under the Factories Act 1961, or having effect as if so made, as appear to him to be necessary or expedient in consequence of this Act;
 - (b) effect with respect to a provision of regulations or an order so made, or having effect as if so made, a substitution similar in result to that effected with respect to section 75(2) of that Act by section 4(1) of this Act;

and an order under this subsection may contain such supplemental and consequential provisions as the Secretary of State considers necessary for giving full effect to the order.

Short title, repeal, commencement and extent

9 Short title, repeal, commencement and extent

- (1) This Act may be cited as the Employment Medical Advisory Service Act 1972.
- (2) The provisions of the Factories Act 1961 specified in column 1 in Schedule 3 to this Act are hereby repealed to the extent specified in column 2.
- (3) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (4) This Act shall not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 1.

PROVISIONS OF THE FACTORIES ACT 1961 APPLYING TO GIVE EMPLOYMENT MEDICAL ADVISERS CERTAIN POWERS OF INSPECTORS

PART I

PROVISIONS APPLYING IN SECTIONS 146 AND 147

“**146**(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;
- (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;
- (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.

(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, 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, that person shall be deemed to obstruct an inspector in the execution of his duties under this Act.

(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 where an inspector is so obstructed in a factory, the occupier of that factory, shall be guilty of an offence.

147 The powers of an inspector under section 146 of this Act shall include the power to enter, inspect and examine at all reasonable times any warehouse and every part thereof—

- (a) by day or night, when he has reasonable cause to believe that any young person is employed in or in connection with the warehouse in such circumstances that section 116 of this Act applies to him;
- (b) by day, when he has reasonable cause to believe that any young person has within the preceding two months been employed as aforesaid, but not that any young person is so employed;

and for the purposes of the powers conferred by this section a warehouse shall be deemed to be included in the expression " factory " in paragraph (e) of subsection (1) of the said section 146 and in subsections (2), (3) and (4) thereof.”

Status: This is the original version (as it was originally enacted).

PART II

OTHER PROVISIONS EXTENDING SECTION 146 BEYOND FACTORIES

<i>Provision applied</i>	<i>Relevant place or process</i>
Section 123(1) and (2)	Electrical stations.
Section 124(1)	Charitable or reformatory institutions where manual labour is exercised in processes of manufacture etc.
Section 125(1), (2) and (3).	Docks, wharves and quays, and warehouses where mechanical power is used; loading, unloading or coaling ships in docks, harbours and canals.
Section 126(1) and (2)	Constructing, reconstructing, repairing etc. ships in harbours and wet docks.
Section 127(1) and (2)	Building operations and works of engineering construction.
Section 128	Processes connected with lead manufacture or involving use of lead compounds.
Section 129(2) and (3)	Painting buildings.

SCHEDULE 2

Section 2.

AMENDMENTS OF PROVISIONS OF THE FACTORIES ACT 1961 REFERRING TO APPOINTED FACTORY DOCTOR

<i>Provision amended and subject-matter thereof</i>	<i>Amendment</i>
Section 82(3) (notification by factory occupier to the inspector for the district and the appointed factory doctor of cases of industrial diseases occurring in the factory).	For the words " the appointed factory doctor " there shall be substituted the words " the employment medical adviser in charge of the area in which the factory is situate ".
Section 119 (power of factory inspector to require cesser of employment of a young person in the absence of a certificate of an appointed factory doctor that he is fit).	After the words " the appointed factory doctor " there shall be inserted the words " or an employment medical adviser ".
Section 124(2) (power of the Secretary of State to direct that the Act shall apply to an institution subject to modifications).	For paragraph (b) (medical officer of the institution may be appointed to be the appointed factory doctor for the institution) there shall be substituted the following paragraph:— <div style="margin-left: 40px;">“(b) if there be a medical officer of the institution, any duties imposed by regulations or an order under this Act on an</div>

Status: This is the original version (as it was originally enacted).

<i>Provision amended and subject-matter thereof</i>	<i>Amendment</i>
Section 138(1) (posting of abstract of Act and notices at a factory's principal entrances).	employment medical adviser that fall to be discharged in relation to the institution may, with the Secretary of State's permission, be discharged instead by the medical officer". For paragraph (c), there shall be substituted the following paragraph:— “(c) a notice of the address of the employment medical adviser in charge of the area in which the factory is situate”.
Section 141 (registers and records kept in pursuance of the Act to be preserved and kept available for inspection by a factory inspector or the appointed factory doctor).	For the words " the appointed factory doctor " there shall be substituted the words " an employment medical adviser ".

SCHEDULE 3

Section 9.

PROVISIONS OF THE FACTORIES ACT 1961 REPEALED

<i>Provision</i>	<i>Extent of Repeal</i>
Section 85	The whole section.
Section 99	Subsection (4).
Section 118	The whole section.
Section 119	The words " (notwithstanding that a certificate under section one hundred and eighteen of this Act is in force in respect of him) ".
Section 125	Subsection (3)(b) and the preceding " and ", and subsection (4)(b) and the preceding " or ".
Section 126	Subsection (2)(g).
Section 127	Subsection (2)(g).
Section 146	Subsection (1)(g) and (except for offences committed before the coming into force of this Act) the words " and liable to a fine not exceeding twenty pounds " in subsection (4).
Section 151	The whole section.

Status: This is the original version (as it was originally enacted).

<i>Provision</i>	<i>Extent of Repeal</i>
Section 152	The whole section.
Section 184	Subsection (2).