



# Factories Act 1937

1937 CHAPTER 67 1 Edw 8 and 1 Geo 6

## PART XIV

### INTERPRETATION AND GENERAL.

#### *General.*

#### **154 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 Secretary of State 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.

#### **155 Expenses of Secretary of State.**

The expenses of the Secretary of State in carrying this Act into effect shall be defrayed out of moneys provided by Parliament.

#### **156 Application to Scotland.**

- (1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.
- (2) (a) The Department of Health for Scotland shall be substituted for the Minister of Health and the Scottish Education Department shall be substituted for the Board of Education.

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- (b) The expressions “medical officer of health” and “sanitary inspector ” have the like meanings as in the Public Health (Scotland) Act, 1897 , the expression “information” means complaint; the expression “informant ” means prosecutor; the expression “defendant ” means accused person; the expression “summons” means order; the expression “owner ” 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 and the expression “young person ” means a person who has attained the age of fourteen and has not attained the age of eighteen, but does not include any person whose parent is required under or by virtue of the Education (Scotland) Acts, 1872 to 1936, to provide efficient education for him.
- (c) For any reference to a local education authority under the Education Act, 1921, there shall be substituted a reference to an education authority for the purposes of the Education (Scotland) Acts, 1872 to 1936; for any reference to section fourteen of the Education Act, 1918, there shall be substituted a reference to section seventeen of the Education (Scotland) Act, 1918; for any reference to a county court there shall be substituted a reference to the sheriff; for any reference to county court rules there shall be substituted a reference to Act of Sederunt; for any reference to a witness attending before a court of record there shall be substituted a reference to a witness attending an inquiry under the Fatal Accidents Inquiry (Scotland) Act, 1895; for any reference to a master of the Supreme Court there shall be substituted a reference to the auditor of the sheriff court; for the reference in subsection (1) of section one hundred and fifty-seven of this Act to the Ministry of Health Act, 1919, there shall be substituted a reference to the Scottish Board of Health Act, 1919, and to the Reorganisation of Offices (Scotland) Act, 1928; for any reference to the Births and Deaths Registration Acts, 1836 to 1929, there shall be substituted a reference to the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1934.
- (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) The powers and duties conferred and imposed by this Act on district councils shall be exercised and performed in a county by the county council, and in a burgh by the town council, save that, in so far as those powers and duties relate to the provisions contained in Part II of the Third Schedule to this Act, they shall be exercised and performed in a small burgh by the county council of the county in which such burgh is situate, and references in this Act to a district council and a district shall be construed accordingly.
- (5) Any expenses incurred under this Act by a county or a town council shall be defrayed in like manner as expenditure for the purposes of the Public Health (Scotland) Act, 1897.
- (6) The powers conferred by Part II or Part IV of this Act on a court of summary jurisdiction or a justice shall be exercisable only by the sheriff, and any reference in Part VII of this Act to the provisions of Part II with respect to the power of a court of summary jurisdiction shall be construed accordingly.

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- (7) 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, 1908, having jurisdiction in the place where the offence was committed.
- (8) An offence against any provision of this Act which is directed to be enforced by a county or town council may be prosecuted by the council of the county or town in which such offence was committed and any such council may appear in any proceedings instituted by them under this Act by their clerk or other officer duly authorised in that behalf.
- (9) It shall not be an objection to the competency of an inspector or of any person prosecuting in pursuance of the power conferred by the last foregoing subsection 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.
- (10) Every person convicted of an offence against this Act may be found liable in expenses.
- (11) Subsection (10) of section thirty-four, subsection (3) of section fifty-three and subsection (3) of section fifty-four of this Act shall have effect as if the words “by way of complaint” were omitted.
- (12) Where, in pursuance of section sixty-eight of this Act, the Secretary of State directs a formal investigation to be held of any fatal accident, no inquiry into any death due to such accident shall, unless the Lord Advocate otherwise directs, be held in pursuance of the Fatal Accidents Inquiry (Scotland) Act, 1895.
- (13) For subsection (8) of section one hundred and twenty-six the following subsection shall be substituted:—
  - “(8) If and so long as there is no examining surgeon for a factory, the medical officer of health for the county or burgh in which the factory is situate, or any medical officer of the council of such county or burgh designated for the purpose by the medical officer of health shall act as the examining surgeon for that factory.

For the purposes of this subsection, ' burgh ' means large burgh, and a small burgh shall be included within the county in which it is situate.”
- (14) In subsection (9) of section one hundred and twenty-six for any reference to the poor law medical officer there shall be substituted a reference to such medical officer of health or medical officer as is referred to in the foregoing subsection.
- (15) Subsection (4) of section one hundred and forty of this Act shall have effect as if for any reference to a coroner's inquest there were substituted a reference to a public inquiry under the Fatal Accidents Inquiry (Scotland) Act, 1895, or the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act, 1906.
- (16) Any provision of this Act with regard to the recovery of any money summarily as a civil debt shall have effect as if the word “summarily” were omitted therefrom.
- (17) Section sixty-seven, subsection (5) of section one hundred and twenty-eight so far as it relates to legal proceedings, subsection (1) of section one hundred and thirty-seven, section one hundred and forty-one and section one hundred and forty-eight of this Act shall not apply.

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- (18) References to section five of the Criminal Justice Administration Act, 1914, shall not apply.
- (19) Section twenty-nine of the Public Health (Scotland) Act, 1897, shall not apply in relation to any factory within the meaning of this Act.
- (20) 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) Acts, 1897 and 1907, extend to factories within the meaning of those Acts.
- (21) In this section the expressions “large burgh ” and “small burgh ” have the like meanings as in the Local Government (Scotland) Act, 1929, and the expressions “county council ” and “county ” where occurring in any provision for the purposes of which a small burgh is included within a county or which directs that powers and duties shall be exercised and performed by a county council in a small burgh, shall mean respectively, in any case where two counties are combined under subsection (7) of section ten of the Local Government (Scotland) Act, 1929, the joint county council and the combined county.

**157 Substitution of corresponding provisions for certain provisions of 1 Edw.7 c.22.**

- (1) The provisions contained in Part I of the Third Schedule to this Act (being provisions of the Factory and Workshop Act, 1901, of which the administration was transferred under the Ministry of Health Act, 1919, to the Minister of Health, set out with the necessary modifications) shall have effect in lieu of the corresponding provisions repealed by this Act, and shall be enforced by the district council.
- (2) The provisions contained in Part II of the Third Schedule to this Act (being provisions of the Factory and Workshop Act, 1901, of which the administration was transferred as aforesaid but 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 this Act, and shall be enforced by the district council.
- (3) The section of this Act relating to powers in case of default of a district council shall apply with respect to the provisions specified in the foregoing subsections of this section as it applies with respect to the provisions of Part I of this Act, except that references in that section to the Secretary of State and to an inspector shall, for the purposes of the application thereof under this section, be construed as references to the Minister of Health and to an officer appointed by him, and any such officer shall have the like powers as an inspector.

**158 Provisions as to quarries and pit banks.**

- (1) The provisions of the Quarries Act, 1894, shall apply to all quarries of whatever depth, but for the purposes of that Act the expression “quarry ” shall not include any place in which any manufacturing process, other than a process ancillary to the getting, dressing, or preparation for sale of minerals is carried on.
- (2) The provisions of section nineteen of the Mining Industry Act, 1920 (which empowers the Board of Trade to make general and special regulations with respect to metalliferous mines) shall apply to quarries as they apply to metalliferous mines, but with this modification, that for the reference in that section to the general rules contained in section twenty-three of the Metalliferous Mines Regulation Act, 1872,

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there shall be substituted a reference to all the provisions of that Act which apply to quarries.

- (3) Regulations made by the Board of Trade by virtue of the said section nineteen with respect to quarries and metalliferous mines shall apply the provisions of sections ninety-two, ninety-three and ninety-five of the Coal Mines Act, 1911, so far as they relate to employment above ground, to women and young persons employed in connection with any quarry or metalliferous mine, in like manner as the provisions apply to the employment of such persons in connection with the mines mentioned in section one of that Act.
- (4) The Secretary of State may make arrangements with the Board of Trade, with respect to any premises or place in or adjacent to a quarry or mine, for the exercise and performance by the Board of Trade of any of the powers and duties of the Secretary of State under this Act and for the exercise and performance by the Secretary of State of any of the powers and duties of the Board of Trade relating to quarries and mines, and it shall be lawful for the Board of Trade and their officers and the Secretary of State and his officers respectively to exercise and perform the said powers and duties in accordance with the arrangements.

#### **159 Repeals and exclusion of certain enactments.**

- (1) Subject as hereinafter provided the enactments referred to in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that any order, regulation, byelaw, requirement, appointment, or agreement made or certificate (other than a certificate given under section fourteen of the Factory and Workshop Act, 1901) or notice given under any enactment repealed by this Act which is in force at the commencement of this Act shall continue in force and shall have effect as though it had been made or given under this Act, and, in so far as it could have been made or given under a particular provision of this Act, shall be deemed to have been made or given under that provision, and any such order or regulation made by the Secretary of State under a power which is exercisable under a corresponding provision of this Act by a different class of instrument, shall be deemed to be an instrument of that class, so, however, that any order or regulation of the Secretary of State which continues in force by virtue of this proviso may, in so far as may be necessary to bring it into conformity with this Act, be varied or revoked by an order made by him under this Act.

- (2) References in any enactment to a special order made under section one hundred and twenty-six of the Factory and Workshop Act, 1901, shall be construed as references to regulations made under this Act.
- (3) 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.
- (4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

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- (5) 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 workplaces), and section one hundred and twenty-nine of that Act (which relates to the limewashing and washing of certain factories, workshops and workplaces) shall not apply to any factory to which this Act applies.

**160 Short title, commencement, extent and saving.**

- (1) This Act may be cited as the Factories Act, 1937.
- (2) This Act shall, except as otherwise provided, come into operation on the first day of July, nineteen hundred and thirty-eight :

Provided that, if it is shown to the satisfaction of the Secretary of State as respects any particular requirement contained in Part II of this Act that by reason of substantial expenditure involved through the necessity of providing new, or altering existing, buildings or plant, or on account of other special difficulties, it would be right in the case either of factories generally or of any class or description of factory that the requirement should not come into operation on the date aforesaid, he may by order postpone the date of coming into operation of the said requirement, as respects factories generally or that class or description of factory, until such date as he may think fit but not later than the first day of January, nineteen hundred and forty; and any such order may direct that such corresponding provisions of any enactment repealed by this Act as may be specified in the order shall apply in lieu of the postponed requirement of this Act.

- (3) This Act shall not, except where otherwise expressly provided, extend to Northern Ireland.
- (4) Except where otherwise expressly 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.