
S T A T U T O R Y I N S T R U M E N T S

1974 No. 1941

**HEALTH AND SAFETY
FACTORIES**

**The Factories Act 1961 etc. (Repeals and Modifications)
Regulations 1974**

<i>Made - - - -</i>	<i>21st November 1974</i>
<i>Laid before Parliament</i>	<i>3rd December 1974</i>
<i>Coming into Operation</i>	<i>1st January 1975</i>

The Secretary of State in exercise of the powers conferred on him by section 15(1) and (3)(a), 49, 80(1) and 82(3)(a) of the Health and Safety at Work etc. Act 1974(a) ("the 1974 Act") and of all other powers enabling him in that behalf, and after consultation with the Health and Safety Commission and such other bodies as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Factories Act 1961 etc. (Repeals and Modifications) Regulations 1974 and shall come into operation on 1st January 1975.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Repeals and modifications—the Factories Act 1961

2. In the Factories Act 1961(c) ("the 1961 Act") as amended by the Secretary of State for Employment and Productivity Order 1968(d)—

- (a) the provisions mentioned in column 1 of Schedule 1 to these Regulations are hereby repealed to the extent specified in column 2 of that Schedule; and
- (b) the provisions mentioned in Schedule 2 to these Regulations shall have effect subject to the modifications specified in that Schedule.

Revocations and modifications—instruments under the Factories Act 1961

3.—(1) The following instruments, that is to say:—

- (a) the Factories Act (Inquiries) Adaptation Order 1938(e); and
 - (b) the Factories Act (Conduct of Inquiries) Rules 1938(f),
- are hereby revoked.

(a) 1974 c. 37.

(b) 1889 c. 63.

(c) 1961 c. 34.

(d) 1968/729 (1968 II, p. 2108).

(e) S.R. & O. 1938/585 (Rev. VII, p. 96; 1938 I, p. 1254).

(f) S.R. & O. 1938/586 (Rev. VII, p. 97; 1938 I, p. 1255).

(2) The following provisions, that is to say:—

- (a) exemption 1 and, in so far as they enable orders to be made otherwise than by statutory instrument, exemptions 5 and 6 of the Electricity Regulations 1908(a);
- (b) regulation 21 of the Docks Regulations 1934(b); and
- (c) regulation 2 of the Bread, Flour Confectionery and Sausage Manufacture (Commencement of Employment) Regulations 1939(c) in so far as aforesaid,

shall have effect as if for the references therein to the Secretary of State there were substituted references to the Health and Safety Executive.

Repeals—the Hours of Employment (Conventions) Act 1936

4. In the Hours of Employment (Conventions) Act 1936(d), in so far as it applies to Great Britain—

- (a) in section 1(2), the words from “and an inspector” to the end of the subsection; and
- (b) section 3(5),

are hereby repealed.

Repeals and modifications—the Employment Medical Advisory Service Act 1972 etc.

5.—(1) In the Employment Medical Advisory Service Act 1972(e), (“the 1972 Act”) sections 7, 8(2) and the entry in Schedule 2 relating to section 124(2) of the 1961 Act are hereby repealed.

(2) In the Medical Examinations (Fees) Order 1973(f), in Article 3(2), for the reference in sub-paragraph (a) to the Secretary of State, there shall be substituted a reference to the authority for the time being responsible under the Health and Safety at Work etc. Act 1974 for maintaining the employment medical advisory service.

References to inspectors of factories etc.

6. References in any provision of an enactment, instrument or other document to any of the following, that is to say:—

- (a) an inspector appointed under the 1961 Act;
- (b) the inspector for the district, the superintending inspector for the division or the chief inspector;
- (c) an employment medical adviser appointed under the 1972 Act; and
- (d) the chief employment medical adviser or a deputy chief employment medical adviser,

shall, except where the context otherwise requires or where the reference is otherwise expressly amended, be construed as references respectively to—

- (a) an inspector appointed by the Health and Safety Executive under section 19 of the 1974 Act;

(a) S.R. & O. 1908/1312 (Rev. VII, p. 302: 1908, p. 340).
 (b) S.R. & O. 1934/279 (Rev. VII, p. 282: 1934 I, p. 572).
 (c) S.R. & O. 1939/510 (Rev. VII, p. 516: 1939 II, p. 1581).
 (d) 1936 c. 22. (e) 1972 c. 28.
 (f) S.I. 1973/74 (1973 I, p. 416).

- (b) an inspector so appointed who is authorised to act for the purposes of the provision in question;
- (c) an employment medical adviser appointed under section 56 of the 1974 Act; and
- (d) an employment medical adviser so appointed who is authorised to act for the purpose of the provision in question.

Supplemental

7.—(1) These Regulations shall not affect the validity of anything done under any provision of an enactment or instrument repealed or modified by the Regulations before the coming into operation of the Regulations; and anything which at the coming into operation of the Regulations is in process of being done for the purposes of that provision (including in particular any legal proceedings) by or in relation to—

- (a) an inspector appointed under the 1961 Act;
- (b) the inspector for the district, the superintending inspector for the division or the chief inspector;
- (c) an employment medical adviser appointed under the 1972 Act;
- (d) the chief employment medical adviser or a deputy chief employment medical adviser;
- (e) an authority or officer entitled under section 153(3) or 182(5) of the 1961 Act to exercise powers of an inspector under that Act; or
- (f) the Secretary of State,

may, so far as may be necessary for the purposes of or in consequence of the provisions of the Regulations, be continued, respectively, by or in relation to—

- (a) an inspector appointed by the Health and Safety Executive under section 19 of the 1974 Act;
- (b) an inspector so appointed who is authorised to act for the purposes of the provision in question;
- (c) an employment medical adviser appointed under section 56 of the 1974 Act;
- (d) an employment medical adviser so appointed who is authorised to act for the purpose of the provision in question;
- (e) the authority in question or an inspector appointed by that authority under the said section 19;
- (f) the Health and Safety Executive.

(2) Without prejudice to paragraph (1) of this Regulation, any exemption, approval, authorisation, certificate, notice or direction granted or given or other thing whatsoever done, or having effect as if granted, given or done, for the purposes of any provision modified by these Regulations, shall, if in force at the coming into operation of these Regulations, continue in force and have effect as if granted, given or done in accordance with that provision as so modified.

(3) Except as provided in Regulation 3 of these Regulations, regulations, rules and orders made or having effect under any provision repealed by these Regulations and in force immediately before the coming into operation of these Regulations shall continue in force notwithstanding the repeal of that provision.

(4) Where any of the provisions repealed or modified by these Regulations prescribes a penalty for an offence of any kind, that penalty shall, notwithstanding these Regulations, continue to apply to offences of that kind committed before 1st January 1975.

Signed by order of the Secretary of State.

21st November 1974.

Harold Walker,
Joint Parliamentary Under Secretary of State,
Department of Employment.

SCHEDULE 1

Regulation 2(a)

REPEALS—THE FACTORIES ACT 1961

Provision	Extent of repeal
Section 1.	Subsection (5).
Section 2.	Subsection (4).
Section 3.	Subsection (3).
Section 4.	Subsection (2).
Section 5.	Subsection (2).
Section 7.	Subsection (2).
Section 9 and 10.	The whole section in each case.
Section 11.	The whole section except in so far as it enables orders to be made otherwise than by statutory instrument.
Section 13.	Subsection (5) except in so far as it enables orders to be made otherwise than by statutory instrument.
Section 14.	Subsections (3), (4) and (6).
Section 17.	In subsection (2), the words from "and liable" to the end of the subsection; and subsections (3) to (5).
Section 18.	Subsections (5) and (6).
Section 25.	Subsection (4).
Section 32.	In subsection (2)(c), the words "in pounds per square inch".
Section 33.	In subsection (8), the words from "and liable" to "pounds".
Section 35.	In subsection (1)(c), the words "in pounds per square inch".
Section 36.	In subsection (1)(d), the words "in pounds per square inch".
Section 40.	In subsection (3), the words from "subject" to "this Act".
Section 46.	In subsection (2), the words from "and the provisions of Part I" to the end of the subsection.
Sections 53 to 55.	The whole section in each case.
Section 56.	The words from "and subsection (3)" to the end of the section.
Section 58.	Subsections (2) to (4).
Section 59.	Subsections (2) and (3).
Section 62.	The whole section.
Section 64.	Subsection (4).

Provision	Extent of repeal
Section 66.	The whole section.
Sections 70 and 71.	The whole section in each case.
Section 72.	Subsection (2).
Section 73.	Subsection (2).
Section 76.	The whole section.
Section 77.	Subsection (2) except in so far as it extends to Northern Ireland.
Section 78.	In subsection (4), the words from "and if any person" to the end of the subsection.
Section 81.	The whole section.
Section 82.	Subsection (4).
Section 83.	The whole section.
Section 84.	The whole section except in relation to investigations commenced before 1st January 1975.
Section 87.	Subsections (2) and (3).
Section 89.	Subsection (5).
Section 121.	In subsection (1), the words in paragraph (b) from "and the power" to the end of the paragraph; and subsection (7).
Section 122.	In subsection (2), paragraph (b); subsection (6); and in subsection (7), the words from "and subsection (3)" to the end of the subsection.
Section 123.	In subsection (2), paragraphs (b) and (d).
Section 124.	In subsection (1), the words from "except as provided" to the end of the subsection; and subsections (2) and (3).
Section 125.	In subsection (2), paragraphs (c) to (e) and (k); in subsection (3), the references to paragraphs (c), (e) and (k) of subsection (2); in subsection (4), the reference to paragraph (c) of subsection (2); and in subsection (6), the words from "and the power" to "dangerous factories".
Section 126.	In subsection (2), paragraphs (b) to (d) and (k).
Section 127.	In subsection (2), the words in paragraph (c) from "and the power" to the end of the paragraph, paragraphs (d) and (e) and in paragraph (k) the words "powers and" and "inspectors and"; and in subsection (3), the words from the beginning to "practices and".
Section 128.	In paragraph (c), the words "to powers and duties of inspectors and".
Section 129.	Subsection (1); and in subsection (3), paragraph (c).
Section 130.	In subsection (3), the words from "but with the substitution" to the end of the subsection.
Section 134.	The whole section.
Section 137.	In subsection (4), the words from "and liable" to the end of the subsection; and subsection (5).
Section 142.	The whole section.
Section 145.	The whole section.
Section 146.	Subsections (1) to (4) except for the purposes of section 148.
Section 147.	The whole section except for the purposes of section 148.
Sections 149 and 150.	The whole section in each case.
Section 153.	Subsection (3).
Section 154.	The words from "and liable" to the end of the section.
Section 155.	Subsection (5) except in relation to offences under section 135.
Section 156.	The whole section except in relation to offences under sections 40 to 52, 135 and 146(4).

Provision	Extent of repeal
Section 157.	The whole section except in relation to offences under section 135.
Section 159.	The whole section.
Sections 160 and 161.	The whole section in each case except in relation to offences committed before 1st January 1975 and offences under sections 40 to 52 and 135.
Section 164.	Subsections (1) and (2) except in relation to offences under sections 40 to 52, 135 and 146(4); subsection (3); subsection (4) except in relation to investigations, inquests and inquiries commenced before 1st January 1975; and subsections (5) and (7) except in relation to offences under section 135.
Section 165.	The whole section except in relation to orders under sections 40 to 52.
Section 166.	Subsection (3) except for the purposes of section 135.
Section 168.	The whole section except for the purposes of section 135.
Section 174.	Subsection (2).
Section 176.	In subsection (1), the definitions of "chief inspector" and "special regulations".
Section 177.	The whole section.
Section 179.	The whole section.
Section 180.	Subsections (5), (7), (8) and (10).
Section 181.	Subsection (2); and in subsection (3), the words from "section 10" to "this section".
Section 182.	Subsections (5) and (6).
Schedule 2.	In paragraph 8(c), the words from "and subsection (3)" to the end of the sub-paragraph.
Schedule 3.	The whole Schedule.
Schedule 4.	The whole Schedule.

SCHEDULE 2

Regulation 2(b)

MODIFICATIONS—THE FACTORIES ACT 1961

1. Sections 11(2), 13(5), 48(9), 51(6), 69(1), 89(7)(b), 96, 101(b), 117, 131(2) and 173(1), in so far as they enable orders to be made otherwise than by statutory instrument, shall have effect as if the references to the Secretary of State were references to the Health and Safety Executive.
2. Sections 33, 50, 51, 117 and 123 shall have effect as if the references to special regulations were references to regulations.
3. In section 32(2)(d), for the words "forty pounds per square inch" there shall be substituted the words "2.75 bars".
4. In sections 80(3), 82(2), 98(2), 129(6), 133(5), 138(4) and 158, after the word "liable" there shall be inserted the words "on summary conviction".
5. In section 82(1), for the words from "addressed to" to "London" there shall be substituted the words "to the Health and Safety Executive".
6. In section 97, subsections (1) and (5) to (8) shall have effect as if the references to the Secretary of State were references to the Health and Safety Executive.
7. In section 97(4), after the words "under this section, and", there shall be inserted the words "the Health and Safety Executive".
8. In section 98, subsections (1) and (3) shall have effect as if the references to the Secretary of State were references to the Health and Safety Executive.

9. In sections 125(2)(j), 127(2)(j), (3) and (5) and 139, the references to special regulations shall have effect as if they were references to regulations made before the coming into operation of these Regulations in accordance with the provisions (now repealed) of Schedule 4 to the 1961 Act or in accordance with provisions superseded by the provisions of that Schedule and (except in section 127(3)) any regulations made after that date under sections 33, 50, 51, 117 or 123.

10. In section 130(1), for the words "liable to a fine not exceeding three pounds" there shall be substituted the words "liable on summary conviction to a fine not exceeding £400".

11. In section 173(2), for the words "The powers conferred by this Act on" there shall be substituted the words "The duties under this Act of".

12. In section 176(1), for the definition of "inspector" there shall be substituted the following definition:—

" "inspector" means an inspector appointed by the Health and Safety Executive under section 19 of the Health and Safety at Work etc. Act 1974 and references in any provision of this Act to the inspector for the district, the superintending inspector for the division or the chief inspector are references to an inspector so appointed for the purposes of that provision."

13. In section 180(4) there shall be added, at the end, the following words:—

"and the provisions of section 50 of the Health and Safety at Work etc. Act 1974 shall apply to any such power which is exercisable by statutory instrument as they apply to a power to make regulations."

14. In section 182, for subsection (9) there shall be substituted the following subsection:—

"(9) Any powers exercisable by an inspector appointed by a county or town council (or, on or after 16th May 1975, by an islands or district council) under section 19 of the Health and Safety at Work etc. Act 1974 shall, for the purposes of their duties under the Public Health (Scotland) Act 1897, extend to factories within the meaning of that Act."

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain repeals and modifications of provisions of the following Acts and certain instruments thereunder—

- (a) the Factories Act 1961;
- (b) the Hours of Employment (Conventions) Act 1936; and
- (c) the Employment Medical Advisory Service Act 1972.

They are made in consequence of the establishment on 1st January 1975 of the Health and Safety Executive and the coming into operation on that date of provisions of the Health and Safety at Work etc. Act 1974 which supersede or affect the said provisions.

The Regulations therefore—

- (a) transfer certain powers under the 1961 Act connected with the enforcement of that Act from the Secretary of State to the Health and Safety Executive;
- (b) transfer the functions of inspectors appointed under the 1961 Act to inspectors appointed by the Health and Safety Executive under the 1974 Act;
- (c) apply, with certain exceptions, to offences under the 1961 Act committed on or after 1st January 1975 the penalties prescribed in the 1974 Act;
- (d) repeal powers and provisions which are superseded by powers and provisions contained in the 1974 Act, including in particular—
 - (i) powers to make regulations and other instruments;
 - (ii) powers of inspectors (other than fire authority inspectors);
 - (iii) provisions relating to investigations and inquiries;
 - (iv) provisions relating to certain offences, penalties and legal proceedings.

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