



# Factories Act (Northern Ireland) 1965

## 1965 CHAPTER 20

### PART XII

#### OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

#### 155 Offences.

- (1) In the event of any contravention in or in connection with or in relation to a factory of the provisions of this Act, or of any regulation or order made thereunder, the occupier, or (if the contravention is one in respect of which the owner is by or under this Act made responsible) the owner, of the factory shall, subject to the following provisions of this Part, be guilty of an offence.
- (2) In the event ...<sup>F1</sup> of a contravention by any person of any regulation or order made under this Act which expressly imposes any duty upon him, that person shall be guilty of an offence and the occupier or owner, as the case may be, shall not be guilty of an offence, by reason only of ...<sup>F1</sup> the contravention of the provision imposing the said duty, ...<sup>F1</sup>, unless it is proved that he failed to take all reasonable steps to prevent the contravention; but this subsection shall not be taken as affecting any liability of the occupier or owner in respect of the same matters by virtue of some provision other than the provisions or provision aforesaid.
- (3) If the occupier of a factory avails himself of any exception allowed by or under this Act and fails to comply with any of the conditions attached to the exception, he shall be deemed to have contravened the provisions of this Act.
- (4) If any persons are employed in a factory otherwise than in accordance with the provisions of this Act or of any regulation or order made thereunder, there shall be deemed to be a separate contravention in respect of each person so employed.
- (5) Where an offence under this Act committed by a company is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of the company, he, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Status: Point in time view as at 31/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Factories Act (Northern Ireland) 1965, PART XII. (See end of Document for details)*

**F1** SR 1979/246

*S. 156 rep. by SR 1986/350*

**[<sup>F2</sup>157 Power of court to order cause of contravention to be remedied.**

Where the occupier or owner of a factory is convicted of an offence under this Act, the court may, in addition to or instead of inflicting a fine, order him, within the time specified in the order, to take such steps as may be so specified for remedying the matters in respect of which the contravention occurred, and may, on application, enlarge the time so specified, and where such an order is made, the occupier or owner shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the court, but if, after the expiration of that time as originally specified or enlarged by subsequent order, the order is not complied with, the occupier or owner, as the case may be, shall be liable to a fine not exceeding ten pounds for each day on which the non-compliance continues.]

**F2** SR 1979/246

**158 Fine for offence by parent.**

If a young person is employed in any factory in contravention of the provisions of this Act, the parent of the young person shall be guilty of an offence and liable [<sup>F3</sup> on summary conviction] to a fine not exceeding [<sup>F4</sup> level 1 on the standard scale], unless it appears to the court that the contravention occurred without the consent, connivance, or wilful default of the parent.

**F3** SR 1979/246

**F4** [1984 NI 3](#)

*S. 159 rep. by SR 1979/246*

*Ss. 160, 161 rep. by SR 1986/350*

**162 Proceedings against persons not primarily liable.**

Where, under this Act, any person is substituted for another with respect to any provisions of this Act, any order, summons, notice or proceeding which for the purpose of any of those provisions is by or under this Act required or authorised to be served on or taken in relation to that other person, is hereby required or authorised (as the case may be) to be served on or taken in relation to the first-mentioned person.

**163 Owner of machine liable in certain cases instead of occupier.**

Where in a factory the owner or hirer of a machine or implement moved by mechanical power is some person other than the occupier of the factory, the owner or hirer shall, so far as respects any offence under this Act committed in relation to a person who is employed in or about or in connection with that machine or implement, and is in the employment or pay of the owner or hirer, be deemed to be the occupier of the factory.

*Status: Point in time view as at 31/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Factories Act (Northern Ireland) 1965, PART XII. (See end of Document for details)*

## **164 Prosecution of offences and recovery of fines.**

*Subs. (1)(2) rep. by SR 1986/350*

*Subs. (3)(4) rep. by SR 1979/246*

<sup>F5</sup>(5) Where any offence is committed under this Act by reason of a failure to make an examination, enter a report, or do any other thing, at or within a time specified by this Act or any regulation or order made thereunder, the offence shall be deemed to continue until the examination is made, or the report entered, or the other thing done, as the case may be.]

**F5** SR 1979/246

*S. 165 rep. by SR 1986/350*

## **166 Special provisions as to evidence.**

(1) If a person is found in a factory at any time at which work is going on or the machinery is in motion, except during the intervals for meals or rest, he shall, until the contrary is proved, be deemed for the purposes of this Act to have been then employed in the factory, unless the factory is one in which the only persons employed are members of the same family dwelling there.

(2) Where in any proceedings under this Act with respect to a young person it appears to the court that that young person is apparently of or below the age alleged by the informant, it shall lie on the defendant to prove that the young person is not of or below that age.

<sup>F6</sup>(3) Where any entry is required by this Act or by any order or regulations made thereunder to be made in the general register or in any other register or record, the entry made by the occupier of a factory or on his behalf shall, as against him, be admissible as evidence of the facts therein stated, and the fact that any entry so required with respect to the observance of any provision of this Act or of any order or regulation made thereunder has not been made, shall be admissible as evidence that that provision has not been observed.]

**F6** SR 1979/246

## **167 Proceedings for offences in respect of the employment of children.**

For the purposes of any proceedings under this Act in respect of the employment of children in contravention of section 84 of this Act, or section one of the Employment of Women, Young Persons, and Children Act, 1920 <sup>M1</sup>, or any other enactment prohibiting the employment of children which is incorporated with this Act, references in this Part of this Act to young persons shall be construed as including references to children within the meaning of any such enactment.

### **Marginal Citations**

**M1** 1920 c. 65

*Status: Point in time view as at 31/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Factories Act (Northern Ireland) 1965, PART XII. (See end of Document for details)*

## 168 Service of documents, etc.

- (1) Any document (including any summons or order) required or authorised to be served under this Act may be served—
  - (a) on any person by delivering it to him, or by leaving it at, or sending it by post to, his residence;
  - (b) on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by post to, the office of the firm;
  - (c) on the owner or occupier of a factory (including any such owner or occupier<sup>F7</sup> that is a company as defined in section 1(1) of the Companies Act 2006]), in any such manner as aforesaid, or by delivering it, or a true copy thereof, to any person apparently not under the age of sixteen years at the factory.
- (2) Any such document may be addressed for the purpose of the service thereof on the occupier of a factory, to “the occupier” at the proper postal address of the factory, without further name or description.
- (3) The foregoing provisions of this section shall apply with the necessary modifications to documents required or authorised under this Act to be sent to any person, firm, owner or occupier, and to the sending, addressing, and delivery of such documents.

**F7** Words in s. 168(1)(c) substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), **Sch. 1 para. 15** (with art. 10)

## 169 Power of county court to modify agreements.

If by reason of an agreement between the owner and the occupier of premises the whole or any part of which has been let as a factory the owner or occupier is prevented from carrying out any structural or other alterations in the premises which are necessary to enable him to comply with the provisions of this Act or of any regulation or order made under this Act or in order to conform with any standard or requirement imposed by or under this Act, he may apply to the county court, and the court, after hearing the parties and any witnesses whom they desire to call, may make such an order setting aside or modifying the terms of the agreement as the court considers just and equitable in the circumstances of the case.

## 170 Power of county court to apportion expenses.

Where in any premises the whole or any part of which has been let as a factory any structural or other alterations are required in order to comply with the provisions of this Act or of any regulation or order made under this Act or in order to conform with any standard or requirement imposed by or under this Act and the owner or occupier as the case may be alleges that the whole or part of the expenses of the alterations ought to be borne by the occupier or owner, the owner or occupier may apply to the county court, and the court, after hearing the parties and any witnesses whom they may desire to call, may make such an order concerning the expenses or their apportionment as the court considers just and equitable in the circumstances of the case, regard being had to the terms of any contract between the parties, or in the alternative the court may at the request of the owner or occupier determine the lease.

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## **171 Application of Arbitration Act (Northern Ireland) 1937 (c.8)**

[<sup>F8</sup>Part I of the Arbitration Act 1996] shall not apply to proceedings under this Act except in so far as it may be applied by regulations made under this Act.

<b>F8</b> <a href="#">1996 c. 23</a>
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**Status:**

Point in time view as at 31/10/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Factories Act (Northern Ireland) 1965, PART XII.