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## FACTORIES ACT

### Principal Act

<b>Act. No. 1956-12</b>	<i>Commencement</i>	1.8.1956
	<i>Enactment</i>	19.7.1956
Amending enactments	Relevant current provisions	Commencement
Act. 1963-09	ss.10, 34(2), 78(2)-(3)	
1965-15	ss.10, 78(2)	
Order of 25.11.1969	ss. 6(1), 13(2), 15(2), 24(3), 40, 42(2), 43, 48(2), 58(1), 64, 83	
Regs. of 28.5.1970	ss. 39, 59(3)-(4), 66(1)	
Act. 1977-31	s.5(3), (6)	
1991-12	ss. 6(1), (4), 9, 23(2), 39(1), 44(3), 45(3), 58(1)(a), (2)(f)-(g), (3)- (4), 59(5), 64, 65(2)-(3), 73(2)- (3), 77(1), 78(1)-(3), (6), 79(1), 81(1)-(2), 82-84	17.8.1995
LN. 1996/010	ss. 6(1), (6), 58(2)(g)-(h)	25.1.1996
1996/032	s. 80(2A)	29.2.1996
Act. 1997-01	ss. 6(1), (6), 94-104, Sch.1A	1.6.1997
1997-22	ss. 105-112, Sch. 1B	5.11.1998

### Transposing:

Directive 86/188/EEC

Directive 87/217/EEC

Directive 89/391/EEC

**ARRANGEMENT OF SECTIONS.**

Section

**PART I.  
PRELIMINARY.**

1. Short title.
2. General application of Act.
3. Application to factories belonging to the Crown.
4. Power to exempt in case of public emergency.

**PART II.  
INTERPRETATION.**

5. Interpretation of expression "factory".
6. Definitions.

**PART III.  
NOTIFICATION OF FACTORIES.**

7. *Omitted.*
8. Notification regarding new factory.
9. Penalty.

**PART IV.  
HEALTH (GENERAL PROVISIONS).**

10. Cleanliness.
11. Overcrowding.
12. Ventilation.
13. Lighting.
14. Drainage of floors.
15. Sanitary conveniences.
16. *Repealed.*
17. *Repealed.*

**PART V.  
SAFETY (GENERAL PROVISIONS).**

18. Prime movers.
19. Transmission machinery.
20. Other machinery.
21. Provisions as to unfenced machinery.
22. Construction and maintenance of fencing.
23. Construction and disposal of new machinery.

This version is out of date

24. Vessels containing dangerous liquids.
25. Self-acting machines.
26. Training and supervision of inexperienced workers.
27. Hoists and lifts.
28. Chains, ropes and lifting tackle.
29. Cranes and other lifting machines.
30. Register of chains, ropes and lifting tackle, and lifting machines.
31. Safe means of access and safe place of employment.
32. Precautions in places where dangerous fumes are liable to be present.
33. Precautions with respect to explosive or inflammable dust, gas, vapour or substance.
34. Steam boilers.
35. Steam receivers and steam containers.
36. Air receivers.
37. Exceptions as to steam boilers, steam receivers and steam containers, and air receivers.
38. Precautions as to water-sealed gasholders.
39. Means of escape in case of fire.
40. Regulations as to means of escape and fire fighting equipment.
41. Safety provisions in case of fire.
42. Instructions as to use of means of escape in case of fire.
43. Power of Governor to require special safety arrangements for the prevention of accidents.
44. Power of court to make orders as to dangerous conditions and practices.
45. Power of court to make orders as to dangerous factory.
46. Appeal from orders made on complaint.

## **PART VI.**

### **WELFARE (GENERAL PROVISIONS).**

47. Supply of drinking water.
48. Washing facilities.
49. Accommodation for clothing.
50. Facilities for sitting.
51. First aid.

## **PART VII.**

### **HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND REGULATIONS).**

52. Removal of dust or fumes.
53. Prohibition of use of white phosphorus in the manufacture of matches.
54. Meals in certain dangerous trades.
55. Protective clothing and appliances.

This version is out of date

- 56. Protection of eyes in certain processes.
- 57. Laundries.
- 58. Power to make regulations for health, safety and welfare.
- 59. Power to take samples.

**PART VIII.**

SPECIAL APPLICATIONS AND EXTENSIONS.

- 60. Premises where part of building is separate factory.
- 61. Owner of machine liable in certain cases instead of occupier.
- 62. Docks, wharves, quays and warehouses.
- 63. Premises in which steam boilers are used.
- 64. Power to extend application of provisions of Act.

**PART IX.**

MISCELLANEOUS.

- 65. Posting of abstract of Act, regulations and notices.
- 66. General register.
- 67. Preservation of registers and records.
- 68. Periodical return of persons employed.
- 69. Duties of persons employed.
- 70. Prohibition of deductions from wages.

**PART X.**

NOTIFICATION AND INVESTIGATION OF ACCIDENTS  
AND OCCUPATIONAL DISEASES.

- 71. Notification of accidents.
- 72. Power to extend to dangerous occurrences provisions as to notification of accidents.
- 73. Notification of occupational diseases.
- 74. Inquest in case of death by accident or occupational disease.
- 75. Power of Governor to require formal investigation of accidents and dangerous occurrences.

**PART XI.**

ADMINISTRATION.

- 76. Administration of Act.
- 77. Appointment of inspectors and other officers.
- 78. Powers of inspectors.
- 79. Power of inspector to conduct proceedings before the magistrates' court.

**PART XII.**

This version is out of date

## OFFENCES, PENALTIES AND LEGAL PROCEEDINGS.

80. Offences.
81. Penalty for offences for which no express penalty provided.
82. Power of court to order cause of contravention to be remedied.
83. Penalty in case of death or injury.
84. Forgery of certificates, false entries and false declarations.
85. Penalty on persons actually committing offence for which occupier is liable.
86. Power of occupier or owner to exempt himself from liability on conviction of the actual offender.
87. Proceedings against persons other than occupiers or owners.
88. Prosecution of offences.
89. Appeal from orders made on complaint.
90. Special provisions as to evidence.
91. Service and sending of documents, etc.
92. Power to modify agreements.
93. Power to apportion expenses.

## PART XIII.

### PROTECTION OF WORKERS FROM THE RISKS RELATED TO THE EXPOSURE TO NOISE AT WORK.

94. Disapplication of duties.
95. Assessment of exposure.
96. Assessment records.
97. Reduction of risk of hearing damage.
98. Reduction of noise exposure.
99. Ear Protection.
100. Ear protection zones.
101. Maintenance and use of equipment.
102. Provision of information to employees.
103. Duties of employers regarding places of work and articles for use at work.
104. Exemptions.

## PART XIV.

### PREVENTION AND REDUCTION OF ASBESTOS FIBRE DISCHARGES.

105. Interpretation.
106. Relevant authorisations.
107. Prevention and reduction of pollution by asbestos discharges into the natural environment.
108. Airborne discharges.
109. Manufacture of asbestos cement.

This version is out of date

- 110. Manufacture of asbestos paper and board.
- 111. Monitoring for compliance: effluent.
- 112. Monitoring for compliance: airborne discharges.

**SCHEDULE 1.**

Particulars to be submitted by occupier or intending occupier of a factory.

**SCHEDULE 1A.**

- Part I - Daily personal exposure of employees
- Part II - Weekly average of daily personal noise exposure of employees
- Part III - Compulsory sign demarcating ear protection zones

**SCHEDULE 1B.**

Method of sampling analysis of air discharges.

**SCHEDULE 2.**

Processes requiring provision of suitable goggles or effective screens.

**SCHEDULE 3.**

Particulars to be submitted by occupier of premises (other than a factory) in which a steam boiler is used.

This version is out of date

AN ACT TO MAKE PROVISION FOR THE HEALTH, SAFETY AND WELFARE OF PERSONS EMPLOYED IN FACTORIES AND OTHER PLACES, AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

## **PART I.** PRELIMINARY.

### **Short title.**

1. This Act may be cited as the Factories Act.

### **General application of Act.**

2. Save as in this Act otherwise expressly provided, the provisions of this Act shall apply only to factories, as defined by this Act, but shall, except where the contrary intention appears, apply to all such factories.

### **Application to factories belonging to the Crown.**

3.(1) This Act shall apply to factories in Gibraltar belonging to or in the occupation of the Crown in right of its Government of the United Kingdom or in right of its Government of Gibraltar:

Provided that this Act shall not apply to any such factory in which no persons who are not members of the Armed Forces of the Crown are employed.

(2) *Repealed.*

### **Power to exempt in case of public emergency.**

4. The Governor may, at any time for operational or security reasons, by order, to the extent and during the period named in the order, exempt from this Act either factories generally or any class or description of factory.

## **PART II.** INTERPRETATION.

### **Interpretation of expression "factory".**

5.(1) Subject to provisions of this Act the expression "factory" means any premises in which, or within the close or curtilage or precincts of which, persons are employed in manual labour in any process for or incidental to any of the following purposes, namely—

- (a) the making of any article or of part of any article; or
- (b) the altering, repairing, ornamenting, finishing, cleaning or washing, or the breaking up or demolition of any article; or
- (c) the adapting for sale of any article,

being premises in which, or within the close or curtilage or precincts of which, the work is carried on by way of trade or for purposes of gain and to or over which the employer of the persons employed therein has the right of access or control:

And (whether or not they are factories by reason of the foregoing definition) the expression "factory" also includes the following premises in which persons are employed in manual labour, that is to say—

- (i) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;
- (ii) any premises in which the business of sorting any articles is carried on as a preliminary to the work carried on in any factory or incidentally to the purposes of any factory;
- (iii) any premises in which the business of washing or filling bottles or containers or packing articles is carried on incidentally to the purposes of any factory;
- (iv) any laundry carried on as ancillary to another business or incidentally to the purposes of any public institution;
- (v) any premises in which the construction, reconstruction or repair of vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking, or other industrial or commercial undertaking, not being any premises used for the purpose of housing vehicles where only cleaning, washing, running repairs or minor adjustments are carried out;
- (vi) any premises in which printing by letterpress, lithography, photogravure or other similar process, or bookbinding is carried on by way of trade or for purposes of gain or incidentally to another business so carried on;



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- (vii) any premises in which the making, adaptation or repair of dresses, scenery or properties is carried on incidentally to the production, exhibition or presentation by way of trade or for purposes of gain of cinematograph films or theatrical performances not being a stage or dressing room of a theatre in which only occasional adaptation or repairs are made;
- (viii) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry;
- (ix) any premises in which mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain.
- (x) any premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction, not being premises in which such operations or works are being carried on;
- (xi) any premises used for the storage of gas in a gasholder having a storage capacity of not less than 5,000 cubic feet;
- (xii) any premises in which persons are regularly employed in or in connection with the generating of electrical energy for supply by way of trade, or for supply for the purposes of any industrial or commercial undertaking or of any public building or public institution, or for supply to streets or other public places;
- (xiii) any premises in which mechanical power is used for the purposes of or in connection with a public water supply;
- (xiv) any sewage works in which mechanical power is used and any pumping station used in connection with any sewage works.

(2) Any line or siding (not being part of a railway), which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory; and if any such line or siding is used in connection with more than one factory belonging to different occupiers, the line or siding shall be deemed to be a separate factory.

(3) Any workplace in which, with the permission of or under agreement with the owner or occupier, one or more persons carry on any work which could constitute the workplace if the persons working therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Act, and, in the case of any such workplace, the provisions of this Act shall apply as if the owner or occupier of the workplace were the occupier of the factory and the persons working therein were persons employed in the factory.

(4) Where a place situate within the close, curtilage, or precincts forming a factory is solely used for some purpose other than the process carried on in the factory, that place shall not be deemed to form part of the factory for the purposes of this Act, but shall, if otherwise it would be a factory, be deemed to be a separate factory.

(5) Premises shall not be excluded from the definition of a factory by reason only that they are open air premises.

(6) Any premises belonging to or in the occupation of the Crown shall not be deemed not to be a factory by reason only that the work carried on thereat is not carried on by way of trade or for purposes of gain.

#### **Definitions.**

6. (1) In this Act, unless the context otherwise requires—

“article” includes any solid, liquid or gas, or any combination thereof;

“bodily injury” includes injury to health;

“building operation” means the construction, structural alteration, repair or maintenance of a building (including repainting, redecoration, and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the foundation of, an intended building, but does not include any operation which is a work of engineering construction within the meaning of this Act;

“class or description”, in relation to factories, includes a group of factories described by reference to locality;

“daily personal noise exposure” means the level of daily personal noise exposure of an employee ascertained in accordance with Part I of the Schedule 1A but taking no account of the effect of any personal ear protector used;

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“Director” means the person appointed by the Governor to administer the provisions of this Act;

“driving-belt” includes any driving strap or rope;

“exposed” means exposed whilst at work, and “exposure” shall be construed accordingly;

“the first action level” means a daily personal noise exposure of 85dB(a);

“fume” includes gas or vapour;

“general register” means the register kept in accordance with the requirements of section 66;

“harbour” means the port and harbour of Gibraltar and so much of the high sea adjacent thereto as is subject to the dominion of the Crown of England or the jurisdiction of the Admiralty of England;

“inspector” means an inspector appointed under this Act;

“machinery” includes any driving-belt;

“maintained” means maintained in an efficient state, in efficient working order, and in good repair;

“Minister” means the Minister charged with responsibility for employment;

“occupational disease” means a disease prescribed under the provisions of section 31 of the Social Security (Employment Injuries Insurance) Act<sup>1</sup>;

“owner” means the person for the time being receiving the rents or profits of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the premises were leased;

“the peak action level” means a level of peak sound pressure of 200 pascals;

“place of work” means the location at which any person engaged under a contract of service or for services carries on an activity under such contract whether or not for profit or any category of such place as

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<sup>1</sup> 1952-10

may be prescribed in relation to any provision of this Act and “work” means work under a contract of service or for services, that is to say, as an employee or as a self employed person, other than work, whether under a contract of service or for services, as a domestic servant or on a ship (whether or not registered in Gibraltar), and the expression “at work” shall be construed accordingly;

“prime mover” means every engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source;

“process” includes the use of any locomotive;

“railway” means any railway used for the carriage of passengers, goods or other traffic, and includes any works used in connection with and for the purposes of the railway;

“representative” in relation to an employee means any person elected, chosen or designated in accordance with any law or practice to represent employees where problems arise relating to the safety and health protection of such employees at work;

“relevant statutory provision” means any law having as its intention the implementation of any Community obligation concerned with the regulation of places of work for ensuring the safety, health and welfare of employed persons;

“sanitary convenience” means closets and urinals;

“the second action level” means a daily personal noise exposure of 90 dB(a);

“ship” includes every description of vessel used in navigation not propelled by oars;

“steam boiler” means any closed vessel in which for any purpose steam is generated under pressure greater than atmospheric pressure, and includes any economizer used to heat water being fed to any such vessel, and any superheater used for heating steam;

“transmission machinery” means every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance;

This version is out of date

“vessel” includes any ship or boat, or other description of vessel used in navigation;

“work of engineering construction” means the construction of any railway or siding, and the construction, structural alteration or repair (including repointing and repainting); or the demolition of any dock, harbour, tunnel, bridge, viaduct, waterworks, reservoir, pipe-line, aqueduct, sewer, sewage works, or gasholder, and shall include such other works as may be specified by the Governor by order.

(2) *Omitted.*

(3) For the purposes of this Act a factory shall not be deemed to be a factory in which mechanical power is used by reason only that mechanical power is used for the purpose of heating, ventilating or lighting the workrooms or other parts of the factory.

(4) For the purposes of this Act, an apprentice and a cadet, being a person engaged under a contract of service in part or whole for the purpose of receiving training shall be deemed to be a person employed.

(5) Where in any section of this Act reference is made to the date of commencement of this Act such date shall, unless the context otherwise requires, be deemed to be the date on which that section came into operation.

(6) In this Act any reference to—

(a) an employer includes a reference to a self-employed person and any duty imposed by this Act on an employer in respect of his employees shall extend to a self-employed person in respect of himself;

(b) an employee includes a reference to a self-employed person;

and where any duty is placed by this Act on an employer in respect of his employees, that employer shall, so far as is reasonably practicable, be under a like duty in respect of any other person at work who may be affected by the work carried on by him.

### **PART III.** **NOTIFICATION OF FACTORIES.**

7. *Omitted.*

**Notification regarding new factory.**

8.(1) Every person shall not less than one month before he begins to occupy or to use any premises as a factory serve on the Director a written notice containing the particulars set out in Schedule 1.

(2) Notwithstanding anything in subsection (1) a person may begin to occupy or to use any premises as a factory less than one month after the notice required by that subsection has been served if the Director gives written permission, and a person may also begin to occupy a factory less than one month after the notice has been

served or before serving the notice, if he takes over from another person without changing the nature of the work and the notice is served as soon as practicable and in any case within one month of his taking over.

**Penalty.**

9. A person who fails to serve on the Director a written notice under section 7, or who begins to occupy, or to use any premises as a factory before he is entitled to do so under section 8(1), or who, being entitled under section 8(2), to occupy a factory before giving notice fails to give the required notice within the time allowed, is guilty of an offence and is liable on conviction to a fine at level 4 on the standard scale for the first, and one quarter of the amount at level 4 on the standard scale for each subsequent day during which he occupies the factory or uses the premises as a factory, as aforesaid, or during which he fails to give the notice after the expiration of the time allowed, as the case may be.

**PART IV.**

HEALTH (GENERAL PROVISIONS).

**Cleanliness.**

10. Every factory shall be kept in a clean state, and free from effluvia arising from any drain, sanitary convenience or nuisance, and without prejudice to the generality of the foregoing provisions—

- (a) accumulations of dirt and refuse shall be removed daily by a suitable method from the floors and benches of workrooms, and from the staircases and passages;
- (b) the floor of every workroom shall be cleaned at least once every week by washing or, if it is effective and suitable, sweeping or by any other method;

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- (c) all inside walls and partitions, and all ceilings or tops of rooms, and all walls, sides and tops of passages and staircases shall—
  - (i) where they have a smooth impervious surface, at least once in every period of twelve months be washed with hot water and soap or cleaned by other suitable method;
  - (ii) where they are kept painted with oil paint or varnished, be repainted or revarnished at least once in every period of five years, and at least once in every period of twelve months be washed with hot water and soap or cleaned by other suitable method;
  - (iii) where they are kept painted with emulsion paint, be repainted at least once in every period of three years, and at least once in every period of twelve months be washed with hot water and soap or cleaned by other suitable method;
  - (iv) in other cases, be kept whitewashed or colour-washed, and the whitewashing or colour-washing shall be repeated at least once in every period of twelve months;

Provided that where it appears to the Director that in any class or description of factory or part thereof any of the foregoing provisions of this section are not required for the purpose of keeping the factory in a clean state, or are by reason of special circumstances inappropriate or inadequate for such purpose, he may, if he thinks fit, by certificate in writing direct that all or any of such provisions shall not apply to any factory, or part of a factory, of that class or description subject to any conditions specified in the certificate.

### **Overcrowding.**

11.(1) A factory shall not, while work is carried on, be so overcrowded as to cause risk of injury to the health of the persons employed therein.

(2) Without prejudice to the generality of the foregoing provision, a factory shall be deemed to be so overcrowded if the number of persons employed at a time in any workroom is such that the amount of cubic space allowed for every person employed is less than three hundred and fifty cubic feet.

(3) *Omitted.*

(4) In calculating, for the purposes of this section, the amount of cubic space in any room, no space more than fourteen feet from the floor shall be taken into account and where a room contains a gallery, the gallery shall be treated for the purposes of this subsection as if it were partitioned off from the remainder of the room and formed a separate room.

**Ventilation.**

12. Effective and suitable provision shall be made for securing and maintaining by the circulation of fresh air in each workroom the adequate ventilation of the room, and for rendering harmless, so far as practicable, all fumes, dust and other impurities that may be injurious to health generated in the course of any process or work carried on in the factory.

**Lighting.**

13.(1) Effective provision shall be made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a factory in which persons are working or passing.

(2) The Governor may by regulations prescribe a standard of sufficient and suitable lighting for factories or for any class of factory or parts thereof or for any process.

(3) All glaze windows and skylights used for the lighting of workrooms shall, so far as practicable, be kept clean on both the inner and outer surfaces and free from obstruction:

Provided that this subsection shall not affect the whitewashing or shading of windows and skylights for the purpose of mitigating heat or glare.

**Drainage of floors.**

14. Where any process is carried on which renders the floor liable to be wet to such an extent that the wet is capable of being removed by drainage, effective means shall be provided and maintained for draining off the wet.

**Sanitary conveniences.**

15.(1) Sufficient and suitable sanitary conveniences for the persons employed in the factory shall be provided, maintained and kept clean, and effective provision shall be made for lighting the conveniences.

(2) The Governor may make regulations determining for factories or for any class or description of factory what is sufficient and suitable provision for the purpose of this section.



16. *Repealed.*

17. *Repealed.*

#### **PART V.**

#### **SAFETY (GENERAL PROVISIONS).**

##### **Prime movers.**

18.(1) Every flywheel directly connected to any prime mover and every moving part of any prime mover, except any prime mover mentioned in subsection (2), shall be securely fenced, whether the flywheel or prime mover is situated in an engine-house or not.

(2) Every part of electric generators, motors and rotary converters, and every flywheel directly connected thereto, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person, employed or working on the premises as it would be if securely fenced.

##### **Transmission machinery.**

19.(1) Every part of the transmission machinery shall be securely fenced unless it is in such position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

(2) Efficient devices or appliances shall be provided and maintained in every room or place where work is carried on by which the power can promptly be cut off from the transmission machinery in that room or place.

(3) No driving-belt when not in use shall be allowed to rest or ride upon a revolving shaft which forms part of the transmission machinery.

(4) Suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving-belts to and from fast and loose pulleys which form part of the transmission machinery, and any such gear or appliances shall be so constructed, placed and maintained as to prevent the driving-belt from creeping back on to the fast pulley.

(5) Where the Director is satisfied that owing to special circumstances the fulfillment of any of the requirements of subsections (2), (3) and (4) is unnecessary or impracticable, he may direct that that requirement shall not apply in those circumstances.

##### **Other machinery.**

20.(1) Every dangerous part of any machinery, other than prime movers and transmission machinery, shall be securely fenced unless it is in a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced:

Provided that in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements of this subsection shall be deemed to have been complied with if a device is provided which automatically prevents the operator from coming into contact with that part.

(2) Any part of a stock-bar which projects beyond the headstock of a lathe shall be securely fenced unless it is in such a position as to be as safe to every person employed or working on the premises as it would be if securely fenced.

(3) Every machine intended to be driven by mechanical power shall be provided with an efficient starting and stopping appliance, the control of which shall be in such a position as to be readily and conveniently operated by the person operating the machine.

**Provisions as to unfenced machinery.**

21. In determining, for the purposes of the foregoing provisions of this Part, whether any part of the machinery is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced—

- (a) no account shall be taken of any person carrying out, while the part of machinery is in motion, an examination thereof or any lubrication or adjustment shown by such examination to be immediately necessary, being an examination, lubrication or adjustment which it is necessary to carry out while the part of machinery is in motion; and
- (b) in the case of any part of transmission machinery used in any process in any factory with respect to which the Director has declared, by certificate in writing, that he is satisfied that, owing to the continuous nature of such process, the stopping of that part would seriously interfere with the carrying on of the process in such factory, no account shall be taken of any person carrying out in the factory, by such methods and in such circumstances and subject to such conditions as may be specified in the certificate, any lubrication or any mounting or slipping of belts:

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Provided that paragraphs (a) and (b) of this section shall only apply where—

- (1) the examination, lubrication or other operation is carried out by a male person who—
  - (i) has attained the age of eighteen years; and
  - (ii) has been appointed by the occupier of the factory, by certificate attached to the general register, to carry out such examination, lubrication or other operation, and has been furnished by the occupier with a signed copy of such certificate; and
  - (iii) has been sufficiently trained for the purposes of the work entailed by, and is acquainted with the dangers of moving machinery arising in connection with, such examination, lubrication or other operation; and
  - (iv) has been provided by the occupier with, and is wearing, a close-fitting single-piece overall suit in good repair, which is fastened by means having no exposed loose ends and had no external pockets other than a hip pocket; and
- (2) another person, instructed as to the steps to be taken in case of emergency, is immediately available within sight or hearing of any person carrying out such examination, lubrication or other operation; and
- (3) any ladder in use for the carrying out of such examination, lubrication or other operation is securely fixed or lashed, or is firmly held by a person stationed at the foot of the ladder.

**Construction and maintenance of fencing.**

22. All fencing or other safeguards provided in pursuance of the foregoing provisions of this Part shall be of substantial construction, and constantly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use, except when any such parts are necessarily exposed for examination and for any lubrication or adjustment shown by such examination to be immediately necessary, and all the conditions specified in the proviso to section 21 are complied with.

**Construction and disposal of new machinery.**

23.(1) In the case of any machine in a factory being a machine intended to be driven by mechanical power—

- (a) every set-screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and
- (b) all spur and other toothed or friction gearing, which does not require frequent adjustment while in motion, shall be completely encased unless it is so situated as to be as safe as it would be if completely encased.

(2) A person who constructs or causes to be constructed or sells, or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire, or imports for use, knowing it to be for use in a factory in Gibraltar, any machine intended to be driven by mechanical power which does not comply with the requirements of this section is guilty of an offence and is liable on conviction to a fine at level 5 on the standard scale.

(3) Nothing in this section shall apply to any machine constructed in or imported into Gibraltar before the date fixed for this Act to come into operation.

#### **Vessels containing dangerous liquids.**

24.(1) Every fixed vessel, structure, sump or pit of which the edge is less than three feet above the adjoining ground or platform shall, if it contains any scalding, corrosive or poisonous liquid, either be securely covered or be securely fenced to at least that height, or where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing or other means to prevent any person from falling into the vessel, structure, sump or pit.

(2) As respects any such plant as aforesaid, a warning notice, indicating the nature of the danger, and in a form readily understood by the persons employed, shall be marked on or attached to the plant or, if this is not reasonably practicable, be posted nearby.

(3) The Governor may by Order exempt from the requirements of this section any class of vessel, structure, sump or pit in the case of which he is satisfied that the requirements are unnecessary or inappropriate.

#### **Self-acting machines.**

25. No traversing part of any self-acting machine and no material carried thereon shall, if the space over which it runs is a space over which any

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person is liable to pass, whether in the course of his employment or otherwise, be allowed on its outward or inward traverse to run within a distance of eighteen inches from any fixed structure not being part of the machine.

#### **Training and supervision of inexperienced workers.**

26. No person shall be employed at any machine or in any process, being a machine or process liable to cause bodily injury, unless he has been fully instructed as to the dangers likely to arise in connection therewith and the precautions to be observed, and—

- (a) has received a sufficient training in work at the machine or in the process; or
- (b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine or process.

#### **Hoists and lifts.**

27.(1) Every hoist or lift shall be of good mechanical construction, sound material and adequate strength, and be properly maintained.

(2) Every hoist or lift shall be thoroughly examined at least once in every period of six months by a person approved for the purposes of this section by the Director by certificate in writing, and a report of the result of every such examination, in the prescribed form and containing the prescribed particulars, shall be signed by the person making the examination and shall within fourteen days be entered in or attached to the general register.

(3) Every hoistway or liftway shall be efficiently protected by a substantial enclosure fitted with gates, being such an enclosure as to prevent, when the gates are shut, any person falling down the way or coming into contact with any moving part of the hoist or lift.

(4) Any such gate shall be fitted with efficient interlocking or other devices to secure that the gate cannot be opened except when the cage or platform is at the landing and that the cage or platform cannot be moved away from the landing until the gate is closed.

(5) Every hoist or lift and every such enclosure shall be so constructed as to prevent any part of any person or any goods carried in the hoist or lift being trapped between any part of the hoist or lift and any fixed structure or between the counterbalance weight and any other moving part of the hoist or lift.

(6) There shall be marked conspicuously on every hoist or lift the maximum working load which it can safely carry, and no load greater than that load shall be carried on any hoist or lift.

(7) The following additional requirements shall apply to hoists and lifts used for carrying persons, whether together with goods or otherwise:-

- (a) efficient automatic devices shall be provided and maintained to prevent the cage or platform overrunning;
- (b) every cage shall, on each side from which access is afforded to a landing, be fitted with a gate, and in connection with every such gate efficient devices shall be provided to secure that, when persons or goods are in the cage, the cage cannot be raised or lowered unless the gate is closed, and will come to rest when the gate is opened;
- (c) in the case of a hoist or lift constructed or reconstructed after the commencement of this Ordinance, where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the platform or cage, each rope or chain and its attachments being capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices shall be provided and maintained which will support the platform or cage with its maximum working load in the event of a breakage of the ropes or chains or any of their attachments.

(8) In the case of a hoist or lift not connected with mechanical power-

- (a) subsection (7) shall not apply; and
- (b) for subsection (4) the following subsection shall be substituted:-

"(4) Any such gate shall be kept closed and fastened except when the cage or platform is at rest at the landing"; and
- (c) in subsection (2), for the reference to six months there shall be substituted a reference to twelve months.

(9) For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage the direction of movement of which is restricted by a guide or guides.

(10) If it is shown to the satisfaction of the Director that it would be unreasonable in the special circumstances of the case to enforce any

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requirement of this section in respect of any class or description of hoist, IHI, hoistway or liftway, he may by certificate in writing, exempt from such requirement such hoists, lifts; hoistways or liftways as may be specified in such certificate Any such exemption may be unqualified or may be subject to such conditions as may be contained in the certificate.

#### **Chains, ropes and lifting tackle.**

28.(1) The following provisions shall be complied with as respects every chain, rope or lifting tackle used for the purpose of raising or lowering persons, goods or materials-

- (a) no chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect;
- (b) a table showing the safe working loads of every kind and size of chain, rope or lifting tackle in use, and, in the case of a multiple sling, the safe working load at different angles of the legs, shall be prominently displayed on premises, and no chain, rope or lifting tackle not shown in the table shall be used, so, however, that the foregoing provisions of this paragraph shall not apply in relation to any lifting tackle if the safe working load thereof or, in the case of a multiple sling, the safe working load at different angles of the legs, is plainly marked upon it;
- (c) no chain, rope or lifting tackle shall be used for any load exceeding the safe working load thereof as shown by such table or so marked upon it;
- (d) all chains, ropes and lifting tackle in use shall be thoroughly examined at least once in every period of six months, or at such greater intervals as the Director may in any particular case permit, by a person approved for the purposes of this section by the Director by certificate in writing;
- (e) no chain, rope or lifting tackle, except a fibre rope sling, shall be taken into use in any factory for the first time in that factory unless it has been tested and thoroughly examined by a person approved by the Director for the purposes of this section and a certificate of such a test and examination, specifying the safe working load and signed by the person making the test and examination, has been obtained and is kept available for inspection;

Provided that the provisions of this paragraph shall not apply as respects any chain, rope or lifting tackle in respect of which there has been obtained, and is kept available for inspection, a certificate of test and thorough examination issued by the manufacturer of the chain, rope or lifting tackle;

- (f) every chain and lifting tackle, except a rope sling, shall, unless of a class or description exempted by the certificate in writing of the Director be annealed once in every fourteen months, or in the case of chains or slings of half-inch bar or smaller, or chains used in connection with molten metal or molten slag, in every six months, so, however, that chains and lifting tackle not in regular use need be annealed only when necessary.

(2) In this section the expression "lifting tackle" means chain slings, rope slings, rings, hooks, shackles and swivels.

#### **Cranes and other lifting machines.**

29.(1) All parts and working gear whether fixed or movable, including the anchoring and fixing appliances, of every lifting machine shall be of good construction, sound material, adequate strength and free from patent defect, and be properly maintained.

(2) All such parts and gear shall be thoroughly examined, at least once in every period of fourteen months, by a person approved for the purposes of this section by the Director by certificate in writing.

(3) All rails on which a travelling crane moves and every track on which the carriage of a transporter or runway moves shall be of proper size and adequate strength, and have an even running surface; and any such rails or track shall be properly laid, adequately supported or suspended, and properly maintained.

(4) There shall be plainly marked on every lifting machine the safe working load or loads thereof, except that in the case of a jib crane so constructed that the safe working load may vary by the raising or lowering of the jib, there shall be attached thereto either an automatic indicator of safe working loads or a table indicating the safe working loads at corresponding inclinations of the jib or corresponding radii of the load.

(5) No lifting machine shall, except for the purpose of a test, be loaded beyond the safe working load as marked or indicated under subsection (4).

(6) No lifting machine shall be taken into use in any factory for the first time in that factory unless it has been tested, and all such parts and working



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gear of the machine as are specified in subsection (1) have been thoroughly examined by a person approved by the Director for the purposes of this section, and a certificate of such a test and examination, specifying the safe working load or loads of the machine and signed by the person making the test and examination, has been obtained and is kept available for inspection:

Provided that if the Director is satisfied on the production of a certificate issued by the manufacturer of the lifting machine certifying that the machine has been properly tested and thoroughly examined by the manufacturer, he may dispense with any examination of the machine under this subsection on the condition that the certificate shall be kept at all times available for inspection.

(7) If any person is employed or working on or near the wheel track of an overhead travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken by warning the driver of the crane or otherwise to ensure that the crane does not approach within twenty feet of that place.

(8) A lifting machine shall not be operated except by a person trained and competent to operate that machine, except that it shall be permissible for such a machine to be operated by a person who is under the direct supervision of a qualified person for the purpose of training; and no person under the age of eighteen years shall be employed to operate any lifting machine driven by mechanical power or to give signals to the operator of any such machine.

(9) In this section the expression "lifting machine" means a crane, crab, winch, teagle, pulley, block; gin wheel, transporter or runway.

#### **Register of chains, ropes and lifting tackle, and lifting machines.**

30. A register, in such form and containing such particulars as may be prescribed shall be kept in every factory with respect to all chains, ropes or lifting tackle (except fibre rope slings) to which section 28 applies, and with respect to all lifting machines to which section 29 applies.

#### **Safe means of access and safe place of employment.**

31.(1) All floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained.

(2) For every staircase in a building or affording a means of exit from a building, a substantial hand-rail shall be provided and maintained, which, if the staircase has an open side, shall be on that side, and, in the case of a staircase having two open sides, or in the case of a staircase which, owing to

the nature of the construction thereof or the conditions of the surface of the steps or other special circumstances is specially liable to cause accidents, such a hand-rail shall be provided and maintained on both sides. Any open side of a staircase shall also be guarded by the provision and maintenance of a lower rail or other effective means.

(3) All openings in floors shall be securely fenced, except in so far as the nature of the work renders such fencing impracticable.

(4) There shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person has at any time to work.

(5) All ladders shall be soundly constructed and properly maintained.

(6) Sufficient clear and unobstructed space shall be maintained at every machine while in motion to enable the work to be carried on without unnecessary risk.

(7) Where any person is at work at a place from which he will be liable to fall a distance of more than ten feet, then, unless the place is one which affords secure foothold and, where necessary, secure hand-hold, means shall be provided, so far as is reasonably practicable, by fencing or otherwise for ensuring his safety.

(8) Every teagle opening or similar doorway used for hoisting or lowering goods or materials, whether by mechanical power or otherwise, shall be securely fenced, and shall be provided with a secure hand-hold on each side of the opening or doorway. The fencing shall be properly maintained and shall, except when the hoisting or lowering of goods or materials is being carried on at such opening or doorway, be kept in position.

**Precautions in places where dangerous fumes are liable to be present.**

32.(1) Where work has to be done inside any chamber, tank, vat, pit, pipe, flue or similar confined space, in which dangerous fumes are liable to be present—

- (a) the confined space shall be provided with adequate means of egress; and
- (b) no person shall enter the confined space for any purpose unless the following requirements are complied with—

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- (i) all practicable steps shall be taken to remove any fumes which may be present and to prevent any ingress of fumes, and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, the person entering shall wear a belt to which there is securely attached a rope of which the free end is held by a person outside; or
  - (ii) the person entering shall wear a suitable breathing apparatus; and
  - (c) suitable breathing apparatus and a suitable reviving apparatus and suitable belts and ropes shall be provided and maintained so as to be readily accessible; and
  - (d) a sufficient number of the persons employed shall be trained and practised in the use of such apparatus and in the method of restoring respiration.
- (2) Without prejudice to subsection (1), a person shall not enter or remain in any chamber, tank, vat, pit, pipe, flue or similar confined space for any purpose unless either—
- (a) he is ensured of a supply of air adequate for respiration and to render harmless any fumes; or
  - (b) he is wearing a suitable breathing apparatus.

**Precautions with respect to explosive or inflammable dust, gas, vapour or substance.**

33.(1) Where, in connection with any grinding, sieving, or other process giving rise to dust, there may escape into any workroom dust of such a character and to such an extent as to be liable to explode on ignition, all practicable steps shall be taken to prevent such an explosion by enclosure of the plant used in the process, and by removal or prevention of accumulation of the dust, and by exclusion or effective enclosure of possible sources of ignition.

(2) Where there is present in any plant used in any such process dust of such a character and to such an extent as to be liable to explode on ignition, then, unless the plant is so constructed as to withstand the pressure likely to be produced by any such explosion, all practicable steps shall be taken to restrict the spread and effects of such an explosion by the provision, in connection with the plant, of chokes, baffles and vents, or other equally effective appliances.

(3) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat, until all practicable steps have been taken to remove the substance and any fumes arising therefrom, or to render them non-explosive or non-inflammable; and if any plant, tank or vessel has been subjected to any such operation, no explosive or inflammable substance shall be allowed to enter the plant, tank or vessel until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(4) The Director may by certificate in writing grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of subsection (3) in any case where he is satisfied that compliance with the requirement is unnecessary or impracticable.

#### **Steam boilers.**

34.(1) Every steam boiler and all its fittings and attachments shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

- (2) Every steam boiler, whether separate or one of a range—
- (a) shall have attached to it—
- (i) a suitable safety valve (separate from and incapable of being isolated by any stop-valve), which shall be so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure and shall be fixed directly to, or as close as practicable to, the boiler;
  - (ii) a suitable stop-valve connecting the boiler to the steam pipe;
  - (iii) a correct steam pressure gauge, connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler and have marked upon it, in a distinctive colour, the maximum permissible working pressure;
  - (iv) at least one water gauge, of transparent material or other type approved by the Director to show the water level in the boiler, and, if the gauge is of the glass tubular type and the working pressure in the boiler normally exceeds

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forty pounds per square inch, the gauge shall be provided with an efficient guard but not so as to obstruct the reading of the gauge;

- (v) where it is one of two or more boilers, a plate bearing a distinctive number which shall be easily visible; and
- (b) shall be provided with means for attaching a test pressure gauge; and
- (c) unless externally fired shall be provided with a suitable fusible plug or an efficient low-water alarm device:

Provided that subparagraph (ii) of paragraph (a) shall not apply with respect to economizers, and subparagraphs (iii), (iv) and (v) of paragraph (a), and paragraphs (b) and (c), shall not apply with respect to either economizers or superheaters.

(3) For the purposes of subsection (2), a lever valve shall not be deemed a suitable safety valve unless the weight is secured on the lever in the correct position.

(4) Every steam boiler attendant shall be properly instructed as to his duties.

(5) No person shall enter or be in any steam boiler which is one of a range of two or more boilers unless—

- (a) all inlets through which steam or hot water might otherwise enter the boiler from any other part of the range are disconnected from that part; or
- (b) all valves or taps controlling such entry are closed and securely locked, and, where the boiler has a blow-off pipe in common with one or more other boilers or delivering into a common blow-off vessel or sump, the blow-off valve or tap on each such boiler is so constructed that it can only be opened by a key which cannot be removed until the valve or tap is closed and is the only key in use for that set of blow-off valves or taps.

(6) No work shall be permitted in any boiler-furnace or boilerflue until it has been sufficiently cooled by ventilation or otherwise to make work safe for the persons employed.

(7) Every steam boiler and all its fittings and attachments shall be thoroughly examined by an authorized boiler inspector at least once in every period of fourteen months, and also after any extensive repairs:

Provided that the person making any such examination may specify in writing a period exceeding fourteen months but not exceeding eighteen months within which the next examination is to be made.

(8) Any examination in accordance with the requirements of subsection (7) shall consist, in the first place, of an examination of the boiler when it is cold and the interior and exterior have been prepared in the prescribed manner, and secondly, except in the case of an economizer or superheater, of an examination when it is under normal steam pressure, and the two parts of the examination may be carried out by different persons; the examination under steam pressure shall be made as soon as possible after the examination of the boiler when cold, and the person making the examination shall see that the safety valve is so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.

(9) A report of the result of every such examination, in the prescribed form and containing the prescribed particulars (including particulars of the maximum permissible working pressure), shall, as soon as practicable and in any case within twenty-eight days of the completion of the examination, be entered in or attached to the general register, and the report shall be signed by the person making the examination.

For the purposes of this subsection and the succeeding provisions of this section relating to reports of examinations, the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations.

(10) No steam boiler which has previously been used shall be taken into use in any factory for the first time in that factory until it has been examined and reported on in accordance with subsections (7), (8) and (9), and no new steam boiler shall be taken into use unless there has been obtained from the manufacturer of the boiler or an authorized boiler inspector a certificate specifying the maximum permissible working pressure of the boiler and stating the nature of the test to which the boiler and fittings have been submitted, and the certificate is kept available for inspection, and the boiler is so marked as to enable it to be identified as the boiler to which the certificate relates.

(11) Where the report of any examination under this section specifies conditions for securing the safe working of a steam boiler, the boiler shall not be used except in accordance with those conditions.

(12) The person making the report of any examination under this section shall within twenty-eight days of the completion of the examination send to the Director a copy of the report in every case where the maximum permissible working pressure is reduced or the examination shows that the boiler cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time.

(13) In this section—

“authorized boiler inspector” means any person (whether an officer of the Government or not) who is authorized by the Director by certificate in writing, to carry out examinations of steam boilers in accordance with, and for the purposes of, this section and to issue the certificate referred to in subsection (10);

“maximum permissible working pressure” means, in the case of a new steam boiler, that specified in the certificate referred to in subsection (10), and, in the case of a steam boiler which has been examined in accordance with the provisions of this section, that specified in the report of the last examination.

(14) This section shall not apply to any boiler belonging to the Crown in right of its Government in the United Kingdom.

#### **Steam receivers and steam containers.**

35.(1) Every steam receiver and all its fittings shall be of good construction, sound material, adequate strength, and free from patent defect, and shall be properly maintained.

(2) Every steam receiver, not so constructed and maintained as to withstand with safety the maximum permissible working pressure of the boiler or the maximum pressure which can be obtained in the pipe connecting the receiver with any other source of supply, shall be fitted with—

- (a) a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure of the receiver being exceeded; and
- (b) a suitable safety valve so adjusted as to permit the steam to escape as soon as the safe working pressure is exceeded, or a suitable appliance for cutting off automatically the supply of steam as soon as the safe working pressure is exceeded; and

- (c) a correct steam pressure gauge, which must indicate the pressure of steam in the receiver in pounds per square inch; and
- (d) a suitable stop valve; and
- (e) except where only one steam receiver is in use, a plate bearing a distinctive number which shall be easily visible.

The safety valve and pressure gauge shall be fitted either on the steam receiver or on the supply pipe between the receiver and the reducing valve or other appliance to prevent the safe working pressure being exceeded.

(3) For the purpose of the provisions of subsection (2), except paragraph (e), any set of receivers supplied with steam through a single pipe and forming part of a single machine may be treated as one receiver, and for the purpose of those provisions, except paragraphs (d) and (e), any other set of receivers supplied with steam through a single pipe may be treated as one receiver:

Provided that this subsection shall not apply to any such set of receivers unless the reducing valve or other appliance to prevent the safe working pressure being exceeded is fitted on the single pipe.

(4) Every steam receiver and all its fittings shall be thoroughly examined by an authorized boiler inspector, so far as the construction of the receiver permits, at least once in every period of twenty-six months.

(5) A report of the result of every such examination, in the prescribed form and containing the prescribed particulars (including particulars of the safe working pressure), shall be entered in or attached to the general register, and the report shall be signed by the person making the examination.

(6) No steam receiver which has previously been used shall be taken into use in any factory for the first time in that factory until it has been examined and reported on in accordance with subsections (4) and (5), and no new steam receiver shall be taken into use unless there has been obtained from the manufacturer of the receiver, or from an authorized boiler inspector, a certificate specifying the safe working pressure of the receiver and stating the nature of the tests to which the receiver and fittings have been submitted, and the certificate is kept available for inspection, and the receiver is so marked as to enable it to be identified as the receiver to which the certificate relates.

(7) Every steam container shall be so maintained as to secure that the outlet is at all times kept open and free from obstruction.



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(8) In this section—

“authorized boiler inspector” means any person (whether an officer of the Government or not) who is authorized by the Director, by certificate in writing, to carry out examinations of steam receivers in accordance with, and for the purposes of, this section and to issue the certificates referred to in subsections (5) and (6);

“maximum permissible working pressure” has the same meaning as in section 34;

“safe working pressure” means, in the case of a new steam receiver, that specified in the certificate referred to in subsection (6), or, in the case of a steam receiver which has been examined in accordance with the provisions of this section, that specified in the report of the last examination;

“steam container” means any vessel (other than a steam pipe or coil) constructed with a permanent outlet into the atmosphere or into a space where the pressure does not exceed atmospheric pressure, and through which steam is passed at atmospheric pressure, or at approximately that pressure, for the purpose of heating, boiling, drying, evaporating or other similar purpose;

“steam receiver” means any vessel or apparatus (other than a steam boiler, steam container, a steam pipe or coil, or a part of a prime mover) used for containing steam under pressure greater than atmospheric pressure.

#### **Air receivers.**

36.(1) Every air receiver shall—

- (a) have marked upon it, so as to be plainly visible, the safe working pressure in pounds per square inch; and
- (b) in the case of a receiver connected with an air compressing plant, either be so constructed as to withstand with safety the maximum pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded; and
- (c) be fitted with a suitable safety valve so adjusted as to permit the air to escape as soon as the safe working pressure is exceeded; and

- (d) be fitted with a correct pressure gauge indicating the pressure in the receiver in pounds per square inch; and
- (e) be fitted with a suitable appliance for draining the receiver; and
- (f) be provided with a suitable manhole, handhole, or other means which will allow the interior to be thoroughly cleaned; and
- (g) in a case where more than one receiver is in use in the factory, bear a distinguishing mark which shall be easily visible.

(2) For the purpose of the provisions of subsection (1) relating to safety valves and pressure gauges, any set of air receivers supplied with air through a single pipe may be treated as one receiver:

Provided that, in a case where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, this subsection shall not apply unless the valve or appliance is fitted on the single pipe.

(3) Every air receiver and its fittings shall be of sound construction and properly maintained.

(4) Every air receiver shall be thoroughly cleaned and examined at least once in every period of twenty-six months:

Provided that in the case of a receiver of solid drawn construction—

- (a) the person making any such examination may specify in writing a period exceeding twenty-six months but not exceeding four years within which the next examination is to be made; and
- (b) if it is so constructed that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of internal examination.

Every such examination and test shall be carried out by an approved person, and a report of the result of every such examination and test, in the prescribed form and containing the prescribed particulars (including particulars of the safe working pressure), shall be entered in or attached to the general register, and the report shall be signed by the person making the examination or test.

(5) In this section—

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“air receiver” means–

- (a) any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing compressed air and connected with an air compressing plant;
- (b) any fixed vessel for containing compressed air or compressed exhaust gases and used for the purposes of starting an internal combustion engine; or
- (c) any fixed or portable vessel (not being part of a spraying pistol) used for the purpose of spraying by means of compressed air any paint, varnish, lacquer or similar material; or
- (d) any vessel in which oil is stored and from which it is forced by compressed air:

Provided that the provisions of paragraph (e) of subsection (1) shall not apply to any such vessel as is mentioned in paragraph (c) or paragraph (d) of this definition;

“approved person” means any person (whether an officer of the Government or not) who is approved by the Director, by certificate in writing, for the purpose of carrying out examinations and tests of air receivers in accordance with, and for the purposes of, this section.

**Exceptions as to steam boilers, steam receivers and steam containers, and air receivers.**

37. The Director may by certificate in writing except from any of the provisions of sections 34, 35 and 36 any class or type of steam boiler, steam receiver, steam container or air receiver to which he is satisfied that such provision cannot reasonably be applied. Any such exception may be unqualified or may be subject to such conditions as may be contained in the certificate.

**Precautions as to water-sealed gasholders.**

38.(1) Every gasholder shall be of sound construction and shall be properly maintained.

(2) Every gasholder shall be thoroughly examined externally by a person authorized by the Director in writing to carry out such examinations at least once in every period of two years, and a record containing the prescribed

particulars of every such examination shall be entered in or attached to the general register.

(3) In the case of a gasholder of which any lift has been in use for more than twenty years, the internal state of the sheeting shall, within two years of the coming into operation of this section and thereafter at least once in every period of ten years, be examined by a competent person by cutting samples from the crown and sides of the holder or by other sufficient means, and all samples so cut and a report on every such examination signed by the person making it shall be kept available for inspection.

(4) A record signed by the occupier of the factory or by a responsible official authorized in that behalf showing the date of the construction, as nearly as it can be ascertained, of the oldest lift of every gasholder in the factory shall be kept available for inspection.

(5) Where there is more than one gasholder in the factory, every gasholder shall be marked in a conspicuous position with a distinguishing number or letter.

(6) No gasholder shall be repaired or demolished except under the direct supervision of a person who, by his training and experience and his knowledge of the necessary precautions against risks of explosion and of persons being overcome by gas, is competent to supervise such work.

(7) In this section the expression "gasholder" means a watersealed gasholder which has a storage capacity of not less than five thousand cubic feet.

**Means of escape in case of fire.**

39.(1) No premises shall be used as a factory unless such premises have been certified by the Chief Fire Officer as being provided with such means of escape in case of fire for the persons employed therein as may reasonably be required in the circumstances of each case and if any premises with respect to which no such certificate is in force are used as a factory, the occupier is guilty of an offence and is liable on conviction to a fine at level 4 on the standard scale, and if the contravention in respect of which he was so convicted is continued after the conviction, he is (subject to the provisions of section 82) guilty of a further offence, and liable in respect thereof to a fine of one tenth of the amount at level 4 on the standard scale for each day on which the offence so continues.

It shall be the duty of the Chief Fire Officer to examine every factory and, on being satisfied that the factory is so provided, to give such a certificate accordingly. The certificate shall specify precisely and in detail the means of

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escape provided, and shall contain particulars as to the maximum number of persons employed or proposed to be employed in the factory as a whole and, if the Chief Fire Officer thinks fit, in any specified part thereof, and as to any explosive or highly inflammable material stored or used and as to other matters taken into account in granting the certificate. The certificate shall be attached by the occupier to the general register and a copy of it shall be sent by the Chief Fire Officer to the Director.

(2) All means of escape specified in the certificate shall be properly maintained and kept free from obstruction.

(3) *Omitted.*

(4) If after the grant of a certificate, it is proposed to make any material extension or material structural alteration of the factory premises or to increase materially the number of persons employed in the factory or in any part specified in the certificate, or to begin to store or use explosive or highly inflammable material in the factory or materially to increase the extent of such storage or use, the occupier shall give notice in writing to the Chief Fire Officer of the proposal.

(5) If the Chief Fire Officer on receipt of the notice mentioned in subsection (4) is of opinion that the conditions in regard to escape in case of fire will be affected, or if at any time he is satisfied that by reason of changed conditions the existing means of escape have become insufficient, he may by notice in writing require the occupier to make such alterations, within such period, as may be specified in the notice.

(6) If it appears to the Chief Fire Officer that dangerous conditions in regard to escape in case of fire exist in any factory he may, by notice in writing, require the occupier to make such alterations, within such period, as may be specified in the notice.

(7) The occupier shall, within the period specified in any notice of the Chief Fire Officer under this section, carry out any alterations required by the notice, and upon their being carried out the Chief Fire Officer shall amend the certificate or issue a new certificate, and shall send a copy of the amended or new certificate to the Director and if the alterations are not so carried out, the Chief Fire Officer shall, without prejudice to the taking of other proceedings, cancel the certificate.

(8) *Repealed.*

(9) If the occupier of any factory is aggrieved by the refusal of the Chief Fire Officer to grant a certificate under this section or by being required under this section to carry out any alterations at the factory or by the

cancellation of a certificate, he may appeal by way of complaint, within twenty-one days of the refusal, notice of requirement, or cancellation, to the magistrates' court, and, pending the final determination of the appeal, no offence shall be deemed to be committed under this section by reason that the premises to which the appeal relates are used as a factory without a certificate being in force with respect thereto; and the decision of the court shall be binding on the occupier.

(10) If it appears to the Director that the conditions in regard to escape in case of fire in any factory are so dangerous that the factory or any part thereof ought not to be used or ought not to be used for a particular process or work, until steps have been taken to remedy the danger, he may make a complaint to the magistrates' court and the court may, on being satisfied of such matters by order prohibit the use of the factory or part thereof, or its use for the particular process or work, until such works have been executed as are in the opinion of the court necessary to remedy the danger. When any works have been executed in pursuance of such an order, the Chief Fire Officer shall amend any certificate in force under this section in respect of the factory, or issue a new certificate, as the case may require, and shall send a copy of the amended or new certificate to the Director.

(11) *Repealed.*

#### **Regulations as to means of escape and fire fighting equipment.**

40. The Governor may make regulations as to the means of escape in case of fire and the appliances for combating and preventing the spread of fire to be provided in factories or any class or description of factory.

#### **Safety provisions in case of fire.**

41.(1) While any person is within a factory for the purpose of employment or meals, the doors of the factory, and of any room therein in which the person is, and any doors which afford a means of exit for persons employed in the factory from any building or from any enclosure in which the factory is situated, shall not be locked or fastened in such manner that they cannot be easily and immediately opened from the inside.

(2) Any doors opening on to any staircase or corridor from any room in which more than ten persons are employed, and in the case of any factory constructed or converted for use as a factory after the commencement of this Act, all other doors affording a means of exit from the factory for persons employed therein, shall, except in the case of sliding doors, be constructed to open outwards.

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(3) In any factory constructed or converted for use as a factory before the coming into operation of this section, in which more than ten persons are employed in the same building above the ground floor, any door, which is not kept continuously open, at the foot of a staircase affording a means of exit from the building shall, except in the case of sliding doors, be constructed to open outwards.

(4) Every window, door or other exit affording means of escape in case of fire or giving access thereto, other than the means of exit in ordinary use, shall be distinctively and conspicuously marked by a notice printed in red letters of an adequate size.

(5) All stocks of highly inflammable substance shall be kept either in a fire-resisting store or in a safe place outside any occupied building:

Provided that no such store shall be so situated as to endanger the means of escape from the factory or from any part thereof in the event of fire occurring in the store.

(6) Where in any factory more than twenty persons are employed in the same building, or explosive or highly inflammable materials are stored or used in any building in which persons are employed, effective provision shall be made for giving warning in case of fire, which shall be clearly audible throughout the building.

(7) The contents of any room in which persons are employed shall be so arranged or disposed that there is a free passageway for all persons employed in the room to a means of escape in case of fire.

## **Instructions as to use of means of escape in case of fire.**

42.(1) Where in any factory more than twenty persons are employed in the same building above the first floor or more than twenty feet above the ground level, or explosive or highly inflammable materials are stored or used in any building where persons are employed, effective steps shall be taken to ensure that all the persons employed are familiar with the means of escape in case of fire and their use and with routine to be followed in case of fire.

(2) The Governor may make regulations as to the steps to be taken for the said purposes in such factories, or any class or description thereof.

## **Power of Governor to require special safety arrangements for the prevention of accidents.**

43. Where it appears to the Governor that, in view of the number and nature of accidents occurring in any factory or class or description of factory, special provision ought to be made at that factory or at factories of that class or description to secure the safety of persons employed therein, he may make special regulations requiring the occupier to make such reasonable provision by arrangements for special supervision in regard to safety, investigation of the circumstances and causes of accidents, and otherwise as may be specified in the regulations.

**Power of court to make orders as to dangerous conditions and practices.**

44.(1) If on complaint by an inspector the magistrates' court is satisfied either—

- (a) that any part of the ways, works, machinery, or plant used in a factory is in such condition or is so constructed or is so placed that it cannot be used without risk of bodily injury; or
- (b) that any process or work is carried on or anything is or has been done in any factory in such a manner as to cause risk of bodily injury,

the court shall, as the case may require, by order—

- (i) prohibit the use of that part of the ways, works, machinery, or plant, or, if it is capable of repair or alteration, prohibit its use until it is duly repaired or altered; or
- (ii) require the occupier of the factory to take such steps as may be specified in the order for remedying the danger complained of.

(2) Where a complaint is or has been made under subsection (1), the court may, on application ex parte by the inspector, and on receiving evidence that the use of any such part of the ways, works, machinery or plant, or, as the case may be, the carrying on of any process or work or the doing of anything in such manner as aforesaid, involves imminent risk of serious bodily injury, make an interim order prohibiting, either absolutely or subject to conditions, the use, carrying on or doing thereof until the earliest opportunity for hearing and determining the complaint.

(3) In the event of a contravention, in relation to any factory, of an order of the magistrates' court made under this section, the occupier of the factory is guilty of an offence and is liable on summary conviction to imprisonment



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for three months and to a fine at level 5 on the standard scale, and if the contravention in respect of which he was so convicted is continued after the conviction, he is guilty of a further offence and is liable in respect thereof to imprisonment for seven days and to a fine of one tenth of the amount at level 5 on the standard scale, for each day on which the offence was so continued.

**Power of court to make orders as to dangerous factory.**

45.(1) The magistrates' court may, on complaint by an inspector, and on being satisfied that any factory or part of a factory is in such a condition, or is so constructed or placed, that any process or work carried on therein, or intended to be carried on therein, cannot be so carried on with due regard to the safety, health and welfare of the persons employed, by order prohibit the use thereof for the purpose of that process or work.

- (2) An order made by the magistrates' court under this section may—
- (a) prohibit the carrying on of any process or work either indefinitely, or until steps have been taken as may be specified in the order to enable the process or work to be carried on with due regard to the safety, health and welfare of the persons employed; and
  - (b) be revoked or varied on the application by way of complaint of the occupier or owner of the factory.

(3) If any process or work is carried on in a factory or part of a factory in contravention of an order of the magistrates' court made under this section, the occupier of the factory is guilty of an offence and is liable on conviction to imprisonment for three months and to a fine at level 5 on the standard scale, and if the contravention in respect of which he was so convicted is continued after the conviction, he is guilty of a further offence and is liable in respect thereof to imprisonment for seven days and to a fine of one tenth of the amount at level 5 on the standard scale, for each day on which the offence was so continued.

**Appeal from orders made on complaint.**

46. Any person (including an inspector) aggrieved by an order made by the magistrates' court on determining a complaint under sections 44 and 45 may appeal therefrom to the Supreme Court.

**PART VI.**  
**WELFARE (GENERAL PROVISIONS).**

**Supply of drinking water.**

47.(1) An adequate supply of wholesome drinking water shall be provided and maintained at suitable points conveniently accessible to all persons employed.

(2) A supply of drinking water which is not laid on shall be contained in suitable vessels, and shall be renewed at least daily, and all practicable steps shall be taken to preserve the water and vessels from contamination; and a drinking water supply (whether laid on or not) shall, in such cases as an inspector may direct, be clearly indicated by a notice in English and in such other language as the inspector may require.

(3) Except where the water is delivered in an upward jet from which the employed person can conveniently drink, one or more suitable cups or drinking vessels shall be provided at each point of supply with facilities for rinsing them in drinking water.

**Washing facilities.**

48.(1) There shall be provided and maintained for the use of employed persons adequate and suitable facilities for washing, which shall be conveniently accessible and shall be kept in a clean and orderly condition.

(2) The Governor may by regulations prescribe, either generally or as respects any class or description of factory or as respects the persons employed in any process, a standard of adequate and suitable washing facilities.

(3) The Director may, by certificate in writing, exempt from any of the requirements of subsection (2) any factory where, by reason of the difficulty of obtaining an adequate supply of water or the fact that accommodation is restricted and adequate and suitable washing facilities are otherwise conveniently available, or such other special circumstances as may be specified in the certificate, the application of the requirement would in his opinion be unreasonable.

**Accommodation for clothing.**

49. There shall be provided and maintained for the use of employed persons adequate and suitable accommodation for clothing not worn during working hours.

**Facilities for sitting.**

This version is out of date

50. There shall be provided and maintained, for the use of all workers whose work is done standing, suitable facilities for sitting sufficient to enable them to take advantage of any opportunities for resting which may occur in the course of their employment.

Where a substantial proportion of any work can properly be done sitting suitable seats shall be provided for all persons employed on such work.

**First aid.**

51.(1) There shall be provided and maintained so as to be readily accessible a first-aid box or cupboard of the prescribed standard, and where more than one hundred and fifty persons are employed an additional box or cupboard for every additional one hundred and fifty persons.

For the purposes of this provision the number of persons employed in a factory shall be taken to be the largest number of persons employed therein at any one time, and any fraction of one hundred and fifty shall be reckoned as one hundred and fifty. Where the persons employed are employed in shifts, the calculation of the number employed shall be according to the largest number at work at any one time.

(2) Nothing except appliances or requisites for first-aid shall be kept in a first-aid box or cupboard.

(3) Each first-aid box or cupboard shall be placed under the charge of a responsible person who shall in the case of a factory where more than twenty-five persons are employed be trained to the prescribed standard in first-aid treatment and the person in charge shall always be readily available during working hours, and a notice shall be affixed in every workroom stating the name of the person in charge of the first-aid box or cupboard in respect of that room.

(4) If an ambulance room is provided at the factory and such arrangements are made as to ensure the immediate treatment there of all injuries occurring in the factory, the Director may by certificate in writing exempt the factory from the requirements of this section to such extent and subject to such conditions as he may specify in the certificate.

**PART VII.**

**HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND REGULATIONS).**

**Removal of dust or fumes.**

52.(1) In every factory in which, in connection with any process carried on, there is given off any dust or fume or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the persons employed, or any substantial quantity of dust of any kind, all practicable measures shall be taken to protect the persons employed against inhalation of the dust or fume or other impurity and to prevent its accumulating in any workroom, and in particular, where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust or fume or other impurity, so as to prevent its entering the air of any workroom.

(2) No stationary internal combustion engine shall be used unless provision is made for conducting the exhaust gases from the engine into the open air.

**Prohibition of use of white phosphorus in the manufacture of matches.**

53.(1) No person shall use white phosphorus in the manufacture of matches.

(2) For the purposes of this Part the expression "white phosphorus" means the substance usually known as white or yellow phosphorus.

**Meals in certain dangerous trades.**

54. Where in any room any poisonous or otherwise injurious substance is so used as to give rise to any dust or fume, no person shall be permitted to partake of food or drink in that room, or to remain in that room when not working and suitable provision be made for enabling the persons employed in any such room to take their meals elsewhere in the factory.

**Protective clothing and appliances.**

55. Where in any factory workers are employed in any process involving exposure to any injurious or offensive substance, suitable protective clothing and appliances, including, where necessary, suitable gloves, footwear, goggles and head coverings, shall be provided and maintained for the use of such workers.

**Protection of eyes in certain processes.**

56.(1) In the case of any of the processes specified in Schedule 2, suitable goggles or effective screens shall be provided to protect the eyes of the persons employed in the process.

This version is out of date

(2) Where in any factory electric arc welding is carried on, effective provision shall be made, by screening or otherwise, to prevent persons employed (other than persons employed in the welding process) being exposed to the electric arc flash.

### **Laundries.**

57. In every laundry—

- (a) effective steps shall be taken by means of a fan or otherwise to regulate the temperature in every ironing room and to carry away the steam in every wash-house;
- (b) all stoves for heating irons shall be so separated from any ironing room or ironing table as to protect the workers from the heat thereof.

### **Power to make regulations for health, safety and welfare.**

58.(1) Where the Governor is satisfied—

- (a) that any manufacture, machinery, plant, equipment, appliances, process or description of labour used in factories is of such a nature as to cause risk of bodily injury, or be offensive, to the persons employed, or any class of those persons; or
- (b) that any measures are necessary to secure the health, safety or welfare of such persons;

he may, subject to the provisions of this Act, make such regulations as appear to him to be reasonably practicable and to meet the necessity of the case.

(2) Regulations so made may, without prejudice to the generality of the powers conferred by subsection (1)—

- (a) prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, equipment, appliance, process or description of manual labour; or
- (b) prohibit, limit or control the use of any material or process; or
- (c) apply provisions relating to—
  - (i) arrangements for preparing or heating, and taking, meals;

- (ii) ambulance and first-aid arrangements;
- (iii) rest rooms;
- (iv) arrangements for the supervision of persons employed;
- (d) impose duties on owners, employed persons and other persons, as well as on occupiers;
- (e) modify or extend with respect to any class or description of factory any provisions of Part IV, Part V, or this Part, being provisions imposing requirements as to health or safety;
- (f) give effect to the law of the European Economic Communities having as its intention the regulation of places of work for the purpose of ensuring the safety, health and welfare of employed persons;
- (g) provide for the extent to which regulations shall bind the Crown and for the extent to which they shall apply to persons in the service of the Crown;
- (h) prescribe anything which may be prescribed under this Act.

(3) Regulations so made may apply to any factory or to all factories in which the manufacture, machinery, plant, equipment, appliance, process or description of labour is used or to any specified class or description of such factories, and may provide for the exemption of any factory or any specified class or description of factory either absolutely or subject to conditions.

(4) Regulations so made may make provision for the charging of fees where administrative expense may be incurred by the Director in the administration of the regulations.

**Power to take samples.**

59.(1) An inspector may at any time after informing the occupier or, if the occupier is not readily available, a foreman, or other responsible person in the factory, take for analysis sufficient samples of any substance used or intended to be used in a factory, being a substance in respect of which he suspects a contravention of any regulation made under this Part, or which he thinks may prove on analysis to be likely to cause bodily injury to the persons employed.

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(2) The occupier or the foreman or other responsible person may, at the time when a sample is taken under this section, and on providing the necessary appliances, require the inspector to divide the sample into three parts, to mark and seal or fasten up each part in such manner as its nature permits, and—

- (a) to deliver one part to the occupier, or the foreman or other responsible person;
- (b) to retain one part for future comparison;
- (c) to submit one part to the analyst.

(3) Any analysis under this section shall, if so required, be carried out by the Government analyst or such other qualified person as may be appointed by the Governor.

(4) A certificate purporting to be a certificate by the Government analyst or other qualified person appointed as to the result of an analysis of a sample under this section shall in any proceedings under this Act be admissible as evidence of the matters stated therein, but either party may require the person by whom the analysis was made to be called as a witness.

(5) It shall not be lawful for any person, except in so far as is necessary for the purposes of a prosecution for an offence under this Act, to publish or disclose to any person the results of an analysis made under this section and a person who acts in contravention of this subsection is guilty of an offence and is liable on conviction to a fine at level 3 on the standard scale.

#### **PART VIII.**

#### **SPECIAL APPLICATIONS AND EXTENSIONS.**

##### **Premises where part of building is separate factory.**

60.(1) Where a part of a building is let off as a separate factory, the provisions of this Act hereafter in this subsection mentioned shall apply to any part of the building used for the purposes of the factory but not comprised therein, that is to say—

- (a) the provisions of Part IV with respect to cleanliness and lighting;
- (b) the provisions of Part V with respect to prime movers, transmission machinery, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines, safe means of access and safe place of employment, steam boilers, steam receivers and steam containers, and air receivers (including the provisions

as to exceptions as to steam boilers, steam receivers and steam containers, and air receivers);

- (c) the provisions of Part V with respect to the power of a court to make orders as to dangerous conditions and practices and as to dangerous factories,

and the owner of the building shall be responsible for any contravention of such provisions and shall also be responsible, instead of the occupier of the factory, for any contravention as respects the factory or the provisions of Part IV with respect to sanitary conveniences and of the provisions of Part V with respect to hoists and lifts, prevention of fire, and safety provisions in case of fire, and, for the purposes of the provisions with respect to prevention of fire and safety provisions in case of fire, the factory shall be deemed to include any part of the building used for the purpose of the factory:

Provided that the owner of the building shall be responsible for the cleanliness of sanitary conveniences only when used in common by several tenants, and shall be responsible for any contravention of the provisions of Part V, only in so far as such provisions relate to matters within his control; and the occupier of the factory shall, in any case, be responsible for any contravention (whether as respects the factory or otherwise) of any of the provisions of Part V with respect to any machinery or plant belonging to or supplied by him.

(2) In sections 44 and 45, as they apply in relation to the factory and as they are applied by subsection (1) of this section references to the occupier shall be taken as references to the occupier of the factory or to the owner of the building, according to which of them is responsible in respect of the matters complained of.

(3) For the purpose of the provisions applied by subsection (1), lifting machines attached to the outside of the building, and chains, ropes and lifting tackle used in connection with those machines, shall be treated as being in the building, but any lifting machine not used for the purpose of the factory, and any chains, ropes or lifting tackle not used in connection with a lifting machine so used, shall be disregarded.

(4) Where, under subsection (1), any provision is applied containing a reference to the general register, then, in relation to matters in respect of which the owner of the building is responsible, that reference shall be taken as a reference to a register to be kept by him, and section 90(2) shall apply in relation to any such register as if the owner were the occupier of a factory.

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



61. When 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.

**Docks, wharves, quays and warehouses.**

62.(1) The provisions of this Act hereinafter in this subsection mentioned shall apply to every dock, wharf, quay, (including any warehouse belonging to the owner of the dock, wharf or quay) and every other warehouse (not forming part of a factory) in or for the purposes of which mechanical power is used, as if it were a factory; and as if the person having the actual use or occupation of it or of any premises within it or forming part of it were the occupier of a factory, that is to say—

- (a) Part I;
- (b) Part II;
- (c) the provisions of Part V with respect to:
  - (i) steam boilers (including the provisions as to exceptions as to steam boilers) so, however, that the owner of the boiler shall, instead of the person deemed to be the occupier, be responsible for any contravention of such provisions;
  - (ii) the power of a court to make orders as to dangerous conditions and practices;
  - (iii) chains, ropes, lifting tackle and cranes and other lifting machines;
- (d) the provisions of Part VII with respect to regulations for health, safety and welfare;
- (e) the provisions of Part IX with respect to the abstract of this Act, rules and notices, general registers (so far as applicable), and preservation of registers and records, and the provisions of such Part with respect of duties of persons employed, and the prohibition of deductions from wages;

- (f) the provisions of Part XI with respect to powers and duties of inspectors, offences, penalties and legal proceedings.

(2) Subject as hereinafter in this subsection provided, the provisions of this Act mentioned in paragraphs (b), (c), subject to the modifications mentioned therein, (d), (e) and (f) of subsection (1) shall apply to the process of loading, unloading or coaling of any ship in any dock or harbour, and to all machinery or plant used in those processes, as if the processes were carried on in a factory and the machinery or plant were machinery or plant in a factory and the person who carries on those processes were the occupier of a factory:

Provided that the provisions of this Act mentioned in subparagraphs (i) and (ii) of paragraph (c) shall not apply in relation to any such machinery or plant which is on board a ship and is the property of the shipowner.

For the purposes of this subsection, the expression "plant" includes any gangway or ladder used by any person employed to load or unload or coal a ship.

**Premises in which steam boilers are used.**

63.(1) The provisions of this Act hereinafter in this subsection mentioned shall apply to any premises (not being premises forming part of a factory, or premises to which the application of this Act is otherwise extended by this Part) in which a steam boiler is used, as if the premises were a factory and as if the person having the actual use or occupation of the premises were the occupier of a factory, that is to say—

- (a) Part I;
- (b) Part II;
- (c) the provisions of Part V with respect to steam boilers and to steam receivers and steam containers (including the provisions as to exceptions as to steam boilers, steam receivers and steam containers) so, however, that the owner of the boiler, receiver or container shall, instead of the persons deemed to be the occupier, be responsible for any contravention of such provisions in so far as they relate to matters within his control;
- (d) the provisions of Part V with respect to the power of a court to make orders as to dangerous conditions and practices;
- (e) the provisions of Part VIII with respect to regulations for health, safety and welfare;

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- (f) the provisions of Part IX with respect to general registers (so far as applicable), records, and the duties of persons employed;
- (g) the provisions of Part XI with respect to powers and duties of inspectors; and
- (h) Part XII:

Provided that this section shall not apply to the use, other than by way of trade or gain, of any culinary or domestic appliance in any private dwelling house.

(2) If a steam boiler is newly taken into use in any premises (not being premises forming part of a factory), the occupier shall, within one month after the date upon which the boiler is first used, send to the Director a written notice containing the particulars set out in Schedule 3.

**Power to extend application of provisions of Act.**

64. The Governor may, by Order published in the Gazette and subject to such conditions as may be specified in that Order, extend the application of all or any of the provisions of this Act to any place of work or to any category of such place.

**PART IX.**  
MISCELLANEOUS.

**Posting of abstract of Act, regulations and notices.**

65.(1) There shall be kept posted in a prominent position in every factory—

- (a) the prescribed abstract of this Act;
- (b) a notice of the address of the Director; and
- (c) printed copies of any regulations made under Part VII which are for the time being in force in the factory, or the prescribed abstract of such regulations; and
- (d) every other notice and document required by this Act to be posted in the factory.

(2) All such documents shall be in English and, where regulations shall so prescribe, in such other language or languages as may be prescribed, and posted in such positions as to be conveniently read by all persons employed

in the factory. If a form has been prescribed for any document, it shall be posted in that form.

(3) A person who pulls down, injures or defaces any abstract, notice, regulation or other document posted in pursuance of this Act is guilty of an offence and is liable on conviction to a fine at level 1 on the standard scale.

**General register.**

66.(1) There shall be kept in every factory a register in the prescribed form, called the general register, and there shall be entered in or attached to that register—

- (a) the certificate of the Chief Fire Officer relating to means of escape in case of fire;
- (b) the prescribed particulars as to every accident and case of industrial disease occurring in the factory of which notice is required to be sent to the Director;
- (c) every other certificate issued in respect of the factory by the Director under the provisions of this Act;
- (d) the prescribed particulars as to the washing, whitewashing or colourwashing, painting or varnishing of the factory;
- (e) all reports and particulars required by any other provision of this Act to be entered in or attached to the general register; and
- (f) such other matters as may be prescribed.

(2) The occupier of a factory shall send to an inspector such extracts from the general register as the inspector may from time to time require for the purpose of the execution of his duties under this Act.

**Preservation of registers and records.**

67. The general register and every other register or record kept in pursuance of this Act shall be preserved and shall be kept available for inspection by any inspector for at least two years, or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the register or record.

**Periodical return of persons employed.**

This version is out of date

68.(1) The occupier of every factory or of any place to which any of the provisions of this Act apply, shall furnish in writing to the Director if so required by him and before such days as may be specified, a correct return showing, with respect to such day or days, or such period, as may be specified, the number of persons employed in the factory or place, and giving such other particulars relating to the persons employed as the Director may reasonably require.

(2) The Director may, for the purpose of facilitating the rendering of returns by occupiers under the provisions of this section, arrange for the consolidation of such returns with any other returns required from occupiers under the provisions of any other law for the time being in force.

#### **Duties of persons employed.**

69.(1) No person employed in a factory or in any other place to which any provisions of this Act apply shall wilfully interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of this Act for securing the health, safety or welfare of the persons employed in the factory or place, and where any means or appliance for securing health or safety is provided for the use of any such persons under this Act, he shall use that means or appliance.

(2) No person employed in a factory or in any other place to which any provision of this Act applies shall wilfully and without reasonable cause do anything likely to endanger himself or any other person.

#### **Prohibition of deductions from wages.**

70. The occupier of a factory shall not in respect of anything to be done or provided by him in pursuance of this Act, make any deductions from the sum contracted to be paid by him to any person employed, or receive, or allow any person in his employment to receive, any payment from any such person.

### **PART X.**

#### **NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND OCCUPATIONAL DISEASES.**

#### **Notification of accidents.**

71.(1) Where any accident occurs in a factory which either—

- (a) causes loss of life to a person employed in that factory; or

- (b) disables any such person for more than three days, from earning full wages at the work at which he was employed,

written notice of the accident, in the form and accompanied by the particulars set out in the prescribed form shall forthwith be sent by the employer to the Director.

(2) Where any accident causing disablement is notified under this section, and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent by the occupier to the Director as soon as the death comes to the knowledge of the employer.

(3) Where any accident to which this section applies occurs to a person employed and the occupier of the factory is not the actual employer of the person killed or injured, the actual employer shall report the accident to the occupier immediately.

**Power to extend to dangerous occurrences provisions as to notification of accidents.**

72. If the Governor considers that, by reason of the risk of serious bodily injury to persons employed, it is expedient that notice should be given by employers under section 71 in every case of any special class of explosion, fire, collapse of buildings, accidents to machinery or plant, or other occurrences in places where workers are employed, he may by Order extend the provisions of so much of that section as applies to notification by employers to any such class of occurrences, whether death or disablement is caused or not, and may by any such Order allow the required notice of any occurrence to which the Order relates, instead of being sent forthwith, to be sent within the time limited by the Order.

**Notification of occupational diseases.**

73.(1) Every medical practitioner attending on or called in to visit a patient whom he believes to be suffering from any occupational disease contracted in any factory shall, unless such a notice has been previously sent, forthwith give to the Director a notice stating the name and address of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, and the name and address of the factory in which he is or was last employed.

(2) A medical practitioner who fails to send any notice in accordance with the requirements of this section is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

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(3) Any occupier of a factory who believes or suspects, or has reasonable grounds for believing or suspecting, that a case of occupational disease has occurred among the workers employed by him, shall forthwith send written notice of such case, in the prescribed form and accompanied by the prescribed particulars, to the Director and to the Community Physician, and the provisions of this Act with respect to the notification of accidents shall apply to any such case in like manner as to any such accident as is mentioned in those provisions.

**Inquest in case of death by accident or occupational disease.**

74.(1) Where the Coroner holds an inquest on the body of any person whose death may have been caused by an accident or disease of which notice is required by this Act to be given, the Coroner shall adjourn the inquest unless the Director or a person authorized on his behalf is present to watch the proceedings, and shall, at least four days before holding the adjourned inquest, send to the Director notice in writing of the time and place of holding the adjourned inquest:

Provided that the Coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof.

(2) With respect to any such inquest the following persons, that is to say—

- (a) the Director or person authorized on his behalf;
- (b) any relation of the person in respect of whose death the inquest is being held;
- (c) the occupier of the factory in which the accident or disease occurred or was contracted;
- (d) any persons appointed in writing by the majority of the workers employed in the factory in which the deceased was employed;
- (e) any person appointed in writing by any organization of workers or other association of persons to which the deceased at the time of his death belonged or to which any worker employed in the factory belongs; and
- (f) any association of employers of which the occupier is a member,

shall, subject to the power of the Coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by barrister or solicitor.

(3) Where evidence is given at any such inquest, at which neither the Director nor any person acting on his behalf is present, of any neglect as having caused or contributed to the accident or disease, or of any defect in or about the factory appearing to the Coroner to require a remedy, the Coroner shall send to the Director notice in writing of the neglect or defect.

(4) The provisions of this section shall be in addition to, and not in derogation of, the provisions of the Coroner's Act.

**Power of Governor to require formal investigation of accidents and dangerous occurrences.**

75.(1) The Governor may, where he considers it expedient so to do, direct a formal investigation to be held into any accident occurring or in case of disease contracted or suspected to have been contracted in a factory and of its cause and circumstances, and with respect to any such investigation the following provisions shall have effect:—

- (a) the Governor may appoint a competent person to hold the investigation, and may appoint any person possessing legal or special knowledge to act as assessor in holding the investigation;
- (b) the person or persons so appointed (hereinafter in this section referred to as “the court”) shall hold the investigation in open court, in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident or case of disease, and for enabling the court to make the report in this section mentioned;
- (c) the court shall have, for the purposes of investigation, all the powers of the magistrates' court when acting as a court in hearing informations for offences under this Act and all the powers of an inspector under this Act, and in addition, power—
  - (i) to enter or inspect any place or building the entry or inspection whereof appears to the court requisite for such purposes;
  - (ii) by summons signed by the court to require the attendance of all such persons as it thinks fit to call and examine for such purposes, and to require answers or returns to such enquiries as it thinks fit to make;



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- (iii) to require the production of all books, papers and documents which it considers important for such purposes;
  - (iv) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by such person in his examination;
- (d) persons attending as witnesses may be allowed such expenses as might be allowed to witnesses attending the magistrates' court to give evidence in criminal proceedings;
- (e) the court shall make a report to the Governor stating the causes and circumstances of the accident or case of disease, adding any observations which the court thinks right to make;
- (f) the court may require expenses incurred in and about an investigation under this section (including the remuneration of any persons appointed to act as assessors) to be paid in whole or part by any person summoned before it who appears to the court to be, by reason of any act or default on his part or on the part of any servant or agent of his, responsible in any degree for the occurrence of the accident or case of disease, but any such expenses not required to be so paid shall be deemed to be part of the expenses of the Director in the administration of this Act.
- (2) The Governor may cause the report of the court to be made public at such time and in such manner as he thinks fit.

## PART XI. ADMINISTRATION.

### **Administration of Act.**

76.(1) The Director shall, subject to the provisions of sections 39 and 40, be responsible for the administration of this Act.

(2) Any notice or certificate issued by the Director under the provisions of this Act may be issued for a limited period or without limit of period and may be varied or revoked by him.

### **Appointment of inspectors and other officers.**

77.(1) The Director may appoint such inspectors or other officers as may be considered necessary (under whatever title he may from time to time determine) for the purposes of this Act.

(2) Every inspector shall be furnished with a certificate of his appointment, and when visiting a factory or place to which any of the provisions of this Act apply shall, if so required, produce such certificate to the occupier or other person holding a responsible position of management at the factory.

**Powers of inspectors.**

78.(1) An inspector shall, for the purpose of the execution of this Act, have the powers prescribed by regulation, subject to any limitations therein prescribed, and such regulations may make provision for the creation of offences and penalties in respect thereof.

(2) *Omitted*

(3) *Omitted*

(4) The occupier of every factory, his agents and servants shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry, the taking of samples, or otherwise for the exercise of his powers under this Act in relation to that factory.

(5) 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, or conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by an inspector, that person shall be deemed to obstruct an inspector in the execution of his duties under this Act.

(6) Where an inspector is obstructed in the execution of his powers or duties under this Act, the person obstructing him is guilty of an offence and is liable on conviction to a fine at level 1 on the standard scale, and where an inspector is so obstructed in a factory, the occupier of that factory is guilty of an offence.

**Power of inspector to conduct proceedings before the magistrates' court.**

79.(1) An inspector may prosecute, conduct or defend before the magistrates' court any information, complaint, or other proceeding under this Act, or in the discharge of his duty as inspector, or with the consent of the Chief Environmental Health Officer, under the Public Health Act.

(2) It shall not be an objection to the competency of an inspector 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.

## PART XII.

### OFFENCES, PENALTIES AND LEGAL PROCEEDINGS.

#### Offences.

80.(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 is, subject as hereinafter in this Act provided, guilty of an offence.

(2) In the event of a contravention by an employed person of the provisions of Part IX with respect to duties of persons employed or of a contravention by any person of any regulation or Order made under this Act which expressly imposes any duty upon him, that person is guilty of an offence and the occupier or owner, as the case may be, is not guilty of an offence by reason only of the contravention of the provisions of Part IX, or the contravention of the provisions imposing such duty, as the case may be, 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.

(2A) Nothing in any relevant statutory provision shall be construed as imposing on an employer a duty where an occurrence is due to unusual and unforeseeable circumstances beyond the employer's control or to exceptional events, the consequences of which could not have been avoided despite the exercise of due care and the words "so far as is reasonably practicable" shall be construed accordingly.

(3) If the occupier of a factory avails himself of any special 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, corporation, society, or other body of persons 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, chairman, manager, secretary or other officer of the company, co-operative society or other body of persons, he, as well as the company, co-operative society or other body of persons, is guilty of the offence and is liable to be proceeded against and punished accordingly.

**Penalty for offences for which no express penalty provided.**

81.(1) Subject as hereinafter in this Act provided, any person guilty of an offence against this Act for which no express penalty is provided by this Act is liable to a fine at level 3 on the standard scale and if the contravention in respect of which he was so convicted is continued after the conviction, he is (subject to the provisions of section 82) guilty of a further offence and is liable in respect thereof to a fine of one tenth of the amount at level 3 on the standard scale for each day on which the contravention was so continued.

(2) Regulations made under section 58 may make provision for offences in respect of contraventions of the requirements of those regulations and may impose fines in respect of such offences of a maximum of ten times the amount at level 5 on the standard scale.

**Power of court to order cause of contravention to be remedied.**

82. Where the occupier or owner of a factory is convicted of an offence against this Act, the court may, in addition to or instead of imposing any penalty, 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, is liable to a fine at level 1 on the standard scale for each day on which the non-compliance continues.

**Penalty in case of death or injury.**

83. If any person is killed, or dies, or suffers any bodily injury, in consequence of the occupier or owner of the factory having contravened any provision of this Act or of regulation or Order made thereunder, the occupier or owner of the factory is, without prejudice to any other penalty, liable to a fine of ten times the amount at level 5 on the standard scale and the whole or

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any part of the fine may be applied for the benefit of the injured person or his family or otherwise as the Governor may determine:

Provided that—

- (a) in the case of injury to health, the occupier or owner shall not be liable to a penalty under this section unless the injury was caused directly by the contravention; and
- (b) the occupier or owner is not liable to a penalty under this section if a charge against him under this Act in respect of the act or default by which the death or injury was caused has been heard and dismissed before the death or injury occurred.

**Forgery of certificates, false entries and false declarations.**

84. A person who—

- (a) forges or counterfeits any certificate required by, under or for the purposes of this Act or any regulation or order made thereunder; or
- (b) gives or signs any such certificate knowing it to be false or deficient in any material particular; or
- (c) knowingly utters or makes use of any such certificate so forged, counterfeited, or false as aforesaid; or
- (d) knowingly utters or makes use of, as applying to any person, any such certificate which does not so apply; or
- (e) personates any person named in any such certificate; or
- (f) falsely pretends to be an inspector; or
- (g) wilfully connives at any such forging, counterfeiting, giving, signing, uttering, making use, personating or pretending; or
- (h) wilfully makes a false entry in any register, notice, certificate, or document required by, under, or for the purposes of, this Act or any regulation or order made thereunder to be kept or served or sent; or
- (i) wilfully makes or signs a false declaration required by, under, or for the purposes of, this Act or any regulation or order made thereunder; or

- (j) knowingly makes use of any such false entry or declaration,

is, without prejudice to any other penalty, guilty of an offence against this Act, and is liable on conviction to imprisonment for three months, or to a fine at level 4 on the standard scale.

**Penalty on persons actually committing offence for which occupier is liable.**

85. Where an act or default for which an occupier or owner of a factory is liable under this Act is in fact the act or default of some agent, servant, worker or other person, that agent, servant, worker or other person is guilty of an offence and is liable to the like penalty as if he were the occupier or owner, as the case may be.

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

86.(1) Where the occupier or owner of a factory is charged with an offence under this Act, he shall be entitled, upon a charge duly made 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 (whether or not that person is his agent or servant) 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 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 rule made thereunder; and
- (b) that the other person had committed the offence in question without his consent, connivance, or wilful default,

that other person shall be 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—

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- (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 of any relevant order or rule made thereunder; and
- (b) by what person the offence has been committed; and
- (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.

#### **Proceedings against persons other than occupiers or owners.**

87. Where, under this Act, any person is substituted for the occupier or owner of a factory with respect to any provisions of this Act, any order, summons, notice or proceedings which, for the purpose of any of those provisions, is by or under this Act required or authorized to be served or taken in relation to the occupier or owner, is hereby required or authorized, as the case may be, to be served on or taken in relation to that person.

#### **Prosecution of offences.**

88.(1) All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered, in the magistrates' court.

(2) In any proceedings under this Act, it shall be sufficient in the charge or information to allege that the factory is a factory within the meaning of this Act and to state the name of the ostensible occupier of the factory or, where the occupier is a firm, the title of the firm.

(3) 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.

(4) Where, with respect to or in consequence of any accident in a factory, a report is made by the court appointed to hold a formal investigation under this Act, or a coroner's inquest is held, and it appears from the report, or from the proceedings at the inquest, that any of the provisions of this Act, or any orders or regulations made thereunder, were not complied with at or before the time of the accident, summary proceedings against any person liable to be proceeded against in respect of

such non-compliance may be commenced at any time within three months after the making of the report or the conclusion of the inquest.

(5) Where a proceeding is taken before the magistrates' court with respect to an offence under this Act alleged to be committed in or with reference to a factory, no person shall be qualified to act as a member of the court who is the occupier or owner of the factory, or the husband, wife, parent, son, daughter, brother, or sister of the occupier or owner of the factory, or a person engaged in, or an officer of any association of persons engaged in, the same trade or occupation as any person charged with the offence.

#### **Appeal from orders made on complaint.**

89. A person aggrieved by an order made by the magistrates' court on determining a complaint under this Act may appeal therefrom to the Supreme Court.

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

90.(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:

Provided that this subsection shall not apply to a factory in which the only persons employed are members of the same family dwelling there.

(2) Where any entry is required by this Act or by any regulation or Order made thereunder to be made in the general register or in any other register or record, the entry made by the occupier of the 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 regulation or order made thereunder has not been made, shall be admissible as evidence that such provision has not been observed.

(3) In this section "members of the same family" means persons, who stand in the following relationship to one another: husband, wife, parent, son, daughter, brother or sister.

#### **Service and sending of documents, etc.**

91.(1) Any document (including any summons or order) required or authorized to be served under this Act may be served—



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- (a) on any person by delivering it to him, or by leaving it at, or sending it by registered post to, his residence or place of business;
- (b) on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by registered post to, the office of the firm;
- (c) on the owner or occupier of a factory (including any such owner or occupier being a company to which the Companies Act applies), in any such manner as aforesaid, or by delivering it, or a true copy thereof, to the manager, foreman, or other responsible person at the factory.

(2) Any such document may be addressed, for the purposes 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 authorized under this Act to be sent to any person, firm, owner or occupier, and to the sending, addressing and delivery of such documents.

#### **Power to modify agreements.**

92. 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 in accordance with rules of court to the Supreme Court for the terms of the agreement to be set aside or modified; and the court, after hearing the parties and any witnesses whom they may 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.

#### **Power to apportion expenses.**

93. 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 thereunder, 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 occupier or owner may apply in accordance with rules of court to the Supreme Court for the expenses of the alterations to be apportioned between them; and the court, after hearing the parties and any witnesses whom they may desire to call, may make such order concerning the expenses of 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.

### PART XIII.

#### PROTECTION OF WORKERS FROM THE RISKS RELATED TO THE EXPOSURE TO NOISE AT WORK.

##### **Disapplication of duties.**

94. The duties imposed by this Part shall not extend to—

- (a) the master or crew of a sea-going ship or to the employer of such persons, in relation to the normal ship-boarding activities of a ship's crew under the direction of the master; or
- (b) the crew of any aircraft which is moving under its own power or any other person on board any such aircraft who is at work in connection with its operation.

##### **Assessment of exposure.**

95.(1) Every employer shall, when any of his employees is likely to be exposed to the first action level or above or to the peak action level or above, ensure that a competent person makes a noise assessment which is adequate for the purposes—

- (a) of identifying which of his employees are so exposed; and
  - (b) of providing him with such information with regard to the noise to which those employees may be exposed as will facilitate compliance by the employer with his duties under sections 98, 99, 100 and 102.
- (2) The noise assessment required by subsection (1) shall be reviewed when—
- (a) there is a reason to suspect that the assessment is no longer valid; or

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- (b) there has been a significant change in the work to which the assessment relates;

and, where as a result of the review changes in the assessment are required, those changes shall be made.

- (3) Employees, and where appropriate, their representative, shall be associated with the assessment required by subsection (1).

### **Assessment records.**

96. Following a noise assessment made pursuant to section 95(1), the employer shall ensure that an adequate record of that assessment, and of any review thereof carried out pursuant to section 95(2), is kept until a further noise assessment is made pursuant to section 95(1).

### **Reduction of risk of hearing damage.**

97. Every employer shall reduce the risk of injury to his employees from exposure to noise, to the lowest level reasonably practicable.

### **Reduction of noise exposure.**

98. Every employer shall, when any of his employees is likely to be exposed to the second action level or above, reduce, so far as is reasonably practicable (other than by the provision of personal ear protectors), the exposure to noise of that employee.

### **Ear protection.**

99.(1) Every employer shall ensure, so far as is reasonably practicable, that when any of his employees is likely to be exposed to the first action level or above in circumstances where the daily personal noise exposure of that employee is likely to be less than 90 dB(A), that employee is provided, at his request, with suitable and efficient personal ear protectors.

(2) Every employer shall ensure, so far as is reasonably practicable, that when any of his employees is likely to be exposed to the second action level or above or to the peak action level or above, that employee is provided with suitable personal ear protectors which, when properly worn, can reasonably be expected to keep the risk of damage to that employee's hearing to below that arising from exposure to the second action level or, as the case may be, to the peak action level or above.

### **Ear protection zones.**

100.(1) Every employer shall, in respect of any premises under his control, ensure, so far as is reasonably practicable, that—

- (a) each ear protection zone is demarcated and identified by means of the sign specified in Part III of Schedule 1A, which sign shall include such text as indicates—
  - (i) that it is an ear protection zone; and
  - (ii) the need for his employees to wear personal ear protectors whilst in any such zone; and
- (b) none of his employees should enter any such zone unless that employee is wearing ear protectors.

(2) In this section, "ear protection zone" means any part of the premises referred to in subsection (1) where any employee is likely to be exposed to the second action level or above or to the peak action level or above.

**Maintenance and use of equipment.**

101.(1) Every employer shall—

- (a) ensure, so far as is reasonably practicable, that anything provided by him to or for the benefit of an employee in compliance with his duties under this Act (other than personal ear protectors provided pursuant to section 99(1)) is fully and properly used; and
- (b) ensure, so far as is reasonably practicable, that anything provided by him in compliance with his duties under this Act is maintained in an efficient state, in efficient working order and in good repair.

(2) Every employee shall, so far as is reasonably practicable, fully and properly use personal ear protectors when they are provided by his employer pursuant to section 99(2) and any other protective measures provided by his employer in compliance with his duties under this Act, and, if the employee discovers any defect therein, he shall report it forthwith to his employer.

**Provision of information to employees.**

102.(1) Every employer shall, in respect of any premises under his control, provide each of his employees who is likely to be exposed to the first action level or above or to the peak action level or above with adequate information, instruction and training on—

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- (a) the risk of damage to that employee's hearing that such exposure may cause;
- (b) what steps that employee can take to minimize that risk;
- (c) the steps that that employee must take in order to obtain the personal ear protectors referred to in section 99(1); and
- (d) that employee's obligations under this Act.

(2) Where appropriate the representatives of such employees shall receive the information specified in subsection (1).

**Duties of employers regarding places of work and articles for use at work.**

103.(1) Every employer shall ensure, so far as is reasonably practicable, that the design, building or construction of a new place of work or substantial extension or modification to an existing place of work or plant or machinery complies with section 97.

(2) When a new article which is intended for use at work is likely to cause any employee to be exposed to the first action level or above or to the peak action level or above, the employer shall provide each of his employees who is likely to be so exposed with adequate information concerning the noise likely to be generated by that article.

**Exemptions.**

104.(1) Subject to subsection (2), the Minister may, by a certificate in writing, exempt any employer from—

- (a) the requirement in section 98, where the daily personal noise exposure of the relevant employee, averaged over a week and ascertained in accordance with Part I of Schedule 1A, is below 90 dB(A) and there are adequate arrangements for ensuring that that average will not be exceeded; or
- (b) the requirement in section 99(2), where—
  - (i) the daily personal noise exposure of the relevant employee, averaged over a week and ascertained in accordance with Part II of Schedule 1A, is below 90 dB(A) and there are adequate arrangements for ensuring that that average will not be exceeded,

- (ii) the full and proper use of the personal ear protectors referred to in that subsection would be likely to cause risks to the health and safety of the user, or
- (iii) (subject to the use of personal ear protectors affording the highest degree of personal protection which it is reasonably practicable to achieve in the circumstances) where compliance with that requirement is not reasonably practicable,

and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) The Minister shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which he proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any laws which apply to the case,

he is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

**PART XIV.**  
**PREVENTION AND REDUCTION OF ASBESTOS FIBRE**  
**DISCHARGES.**

**Interpretation.**

105.(1) In this Act—

“asbestos” means the following fibrous silicates—

- (a) crocidolite (blue asbestos),
- (b) actinolite,
- (c) anthophyllite,
- (d) chrysotile (white asbestos),
- (e) amosite (brown asbestos), and

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(f) tremolite;

“the Minister” means the Minister charged with responsibility for employment and training;

“raw asbestos” means the product resulting from the primary crushing of asbestos ore;

“use of asbestos” means activities which involve the handling of a quantity of more than 100 kilograms of raw asbestos per year and which concern—

(a) the production of raw asbestos ore excluding any process directly associated with the mining of the ore; and/or

(b) the manufacturing and industrial finishing of the following products using raw asbestos—

(i) asbestos cement,

(ii) asbestos-cement products,

(iii) asbestos friction products,

(iv) asbestos filters,

(v) asbestos textiles,

(vi) asbestos paper and card,

(vii) asbestos jointing, packaging and reinforcement materials,

(viii) asbestos floor coverings, and

(ix) asbestos fillers;

“variation notice” means a notice issued by the Minister under section 106(4) below;

“waste” means any substance or object defined in section 192A of the Public Health Act as constituting “waste”;

“working of products containing asbestos” means activities other than the use of asbestos, which are liable to release asbestos into the environment;

“relevant authorisation” means an authorisation by the Minister to carry on a process specified in section 106 below.

**Relevant authorisations.**

106.(1) There shall not be carried out any use of asbestos without the prior authorisation of the Minister.

(2) There shall not be carried out any working of products containing asbestos without the prior authorisation of the Minister.

(3) The following activities shall not be carried out without the prior authorisation of the Minister—

- (a) the demolition of buildings, structures and installations containing asbestos and the removal of asbestos or materials containing asbestos, involving the release of asbestos fibres or dust;
- (b) the transport and deposition of waste containing asbestos fibres or dust, whether landfilled at sites licensed for the purpose or otherwise.

(4) The Minister may, at his discretion and giving reasonable notice, vary any of the conditions to which the relevant authorisation has been made subject.

(5) It shall be an offence to carry out a process for which a relevant authorisation is required pursuant to this section without such an authorisation having first been obtained and in accordance with the conditions to which the said authorisation may be subject.

(6) Any person found guilty of an offence contrary to subsection (5) above shall be liable to a fine not exceeding level 3 on the standard scale.

**Prevention and reduction of pollution by asbestos discharges into the natural environment.**

107.(1) The Minister shall include in any relevant authorisation (whether on the grant of the authorisation or by means of a variation notice) such conditions as will secure—

- (a) that asbestos emissions into the air, asbestos discharges into the aquatic environment and solid asbestos waste are, as far as reasonably practicable, reduced at source and prevented;



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- (b) that in the course of the transportation and dumping of waste containing asbestos fibres or dust, no such fibres or dust are released into the air and no liquids which risk containing asbestos fibres are spilled, and
- (c) that, where waste containing asbestos fibres or dust is landfilled, such waste shall be so treated, packaged or covered in such manner as shall reasonably secure that the release of asbestos particles into the environment is prevented.

(2) A relevant authorisation shall not be granted unless the Minister considers that the applicant for such an authorisation will be able to carry on the process so as to comply with the conditions which would be included in the authorisation.

(3) Where the process for which a relevant authorisation is given includes the use of asbestos, those conditions shall include such provision as will secure the use of the best available technology not entailing excessive cost, including where appropriate recycling or treatment.

(4) When granting an authorisation under this section to a plant already in existence at the time of coming into force of this Act, the Minister shall apply the requirement in subsection (3) above regarding the use of the best available technology to that authorisation, taking into account the following criteria—

- (a) the plant's technical characteristics,
- (b) the plant's rate of utilisation and the estimated length of its remaining life,
- (c) the nature and volume of polluting emissions from it, and
- (d) the desirability of not entailing excessive costs for the plant concerned, having regard, in particular, to the economic situation of the proprietor of the plant.

(5) When granting an authorisation under this section to a plant already in existence at the time of coming into force of this Act, the Minister shall accord the plant such time for compliance as, in his discretion, may seem reasonable.

#### **Airborne discharges.**

108.(1) The Minister shall include, in any relevant authorisation for the use of asbestos, such conditions as will ensure the concentration of asbestos

emitted through discharge ducts into the air does not exceed a limit value of 0.1 milligrams of asbestos per cubic metre of air discharged.

(2) Subsection (1) shall not apply to plants emitting less than 5000 cubic metres per hour of total gaseous discharges of asbestos into the air where the discharge of asbestos into the air is not more than 0.5 grams per hour at any time under normal operating conditions, provided that the Minister shall include in the relevant authorisations for such plants such conditions as will ensure that those thresholds are not exceeded.

(3) Plants to which subsection (2) applies shall not discharge into the air more than 0.5 grams of asbestos per hour.

#### **Manufacture of asbestos cement.**

109.(1) The Minister shall include in any relevant authorisation (whether on the grant of the authorisation or by means of a variation notice) such conditions as will secure, in relation to the manufacture of asbestos cement—

- (a) if it is economically feasible, that all aqueous effluent arising is recycled;
- (b) if it is not economically feasible, that the disposal of liquid waste containing asbestos does not result in pollution of, the aquatic environment and other sectors including the air.

(2) For the purposes of subsection (1)(b) above, the Minister shall secure that—

- (a) a limit value of 30 grams of total suspended matter per cubic metre of aqueous effluent discharged is applied;
- (b) for each plant concerned, the volume of discharges into water of the total quantity of suspended matter discharged per tonne of product is specified taking into account the specific situation of the plant.

(3) The limits mentioned in subsection (2)(a) and (b) above shall apply at the point where the waste waters leave the industrial plant.

#### **Manufacture of asbestos paper and board.**

110.(1) The Minister shall, subject to subsection (2) below, include in any relevant authorisation (whether on the grant of the authorisation or by means of a variation notice) such conditions as will secure, in relation to the

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manufacture of asbestos paper or board, that all aqueous effluent arising is recycled.

(2) The Minister may authorise, during routine cleaning or maintenance of the plant, the discharge of aqueous effluent containing not more than 30 grams of suspended matter per cubic metre of water.

**Monitoring for compliance: effluent.**

111.(1) The Minister shall ensure that the necessary measures are taken to ensure that measurements are taken at regular intervals of discharges of effluent from facilities to which the limit values provided by section 109(2)(a) and (b) and section 110(2) apply.

(2) For the purpose of checking compliance with those limit values, the sampling and analysis procedures and methods shall be in conformity with the reference method described in subsections (3) to (5) below or with any other method or procedure which gives equivalent results.

(3) The reference method of analysis to determine total suspended matter (filterable matter from the non-precipitated sample) as expressed in mg/l shall be filtering through a 0.45 millimetre filter membrane, drying at 105 degrees Celsius.

(4) Samples must be taken in such a way as to be representative of the discharge over a 24 hour period.

(5) The determination must be conducted to a precision of plus or minus 5% and an accuracy of plus or minus 10% and for this purpose—

“precision” means the range within which 95% of the results of the measurements made on a single sample, using the same method, are located; and

“accuracy” means the difference between the true value of the parameter examined and the average experimental value obtained.

**Monitoring for compliance: airborne discharges.**

112.(1) The Minister shall ensure that the necessary measures are taken to ensure that measurements are taken at regular intervals of emissions into the air from facilities to which the limit values provided by section 108 apply.

(2) For the purpose of checking compliance with those limit values, the sampling and analysis procedures and methods shall be in conformity with

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the reference method described in Schedule 1B or with any other method or procedure which gives equivalent results.

## SCHEDULE 1

### Section 8

#### PARTICULARS TO BE SUBMITTED BY OCCUPIER OR INTENDING OCCUPIER OF A FACTORY

1. Name of the intending occupier of the factory.
2. Address and location of the factory.
3. Nature of the work proposed to be carried on in the factory.
4. Whether mechanical power is intended to be used and, if so, its nature.
5. Whether steam boilers are intended to be used, and if so, the following particulars in respect of each such boiler—
  - (a) type, description and distinctive number;
  - (b) country and year of manufacture;
  - (c) date of the last thorough examination and name of the person by whom the examination was made;
  - (d) maximum permissible working pressure in pounds per square inch.
6.
  - (a) Total number of persons intended to be employed in the factory.
  - (b) Where persons are intended to be employed in shifts, the maximum number intended to be employed at any one time.

**SCHEDULE 1A**

Sections 100(1)(a) and 104(1)

**PART I****DAILY PERSONAL EXPOSURE OF EMPLOYEES**

The daily personal noise exposure of an employee, (LEP,d) is expressed in dB(A) and is ascertained using the formula-

$$L_{EP,d} = 10 \log_{10} \left\{ \frac{1}{T_0} \int_0^{T_e} \left[ \frac{P_A(t)}{P_0} \right]^2 dt \right\}$$

where –

$T_e$  = the duration of the person's personal exposure to sound;

$T_0$  = 8 hours = 28,800 seconds;

$P_0$  = 20 $\mu$ Pa; and

$P_A(t)$  = the time-varying value of A-weighted instantaneous sound pressure in pascals in the undisturbed field in air at atmospheric pressure to which the person is exposed (in the locations occupied during the day), or the pressure of the disturbed field adjacent to the person's head adjusted to provide a notional equivalent undisturbed field pressure.

**PART II****WEEKLY AVERAGE OF DAILY PERSONAL NOISE EXPOSURE OF EMPLOYEES**

The weekly average of an employee's daily personal noise exposure (LEP,w) is expressed in dB(A) and is ascertained using the formula-

$$L_{EP,w} = 10 \log_{10} \left[ \frac{1}{5} \sum_{k=1}^{k=m} 10^{0.1(L_{EP,d})_k} \right]$$

where–

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$(L_{EP,d})_k$  = the values of  $L_{EP,d}$  for each of the  $m$  working days in the week being considered.

### PART III

#### COMPULSORY SIGN DEMARCATING EAR PROTECTION ZONES

The sign printed below must carry the intrinsic features as follows -

- (a) it must have a round shape, and
- (b) it must illustrate a white pictogram on a blue background (the blue part to take up at least 50% of the area of the sign).

as illustrated pictorially below-

Clerk to the House.



Eye protection must be worn      Safety helmet must be worn      Ear protection must be worn

## SCHEDULE 1B

Section 112

## METHOD OF SAMPLING ANALYSIS OF AIR DISCHARGES

Specifications to be met when selecting a method for measuring emissions into the air.

*Gravimetric method***Method.**

1. The method selected shall be a gravimetric method which is capable of measuring the total quantities of dust emitted through the discharge ducts.

Account shall be taken of the concentration of asbestos in dust. When concentration measurements are required, the concentration of asbestos in dust shall be measured or evaluated. The Minister shall decide on the periodicity of such measure, according to the characteristics of the plant and of its production, but this should be initially at least every six months. If the Minister has established that the concentration does not display any significant variation, the frequency of measurement may be reduced. Where periodical measures are not taken, the limit value specified in section 112 of the Act apply to the total dust emissions. Sampling shall be conducted before any dilution of the flow to be measured.

**Sampling.**

2. The sampling must be conducted to a precision of plus or minus 40 % and an accuracy of plus or minus 20 % at the limit value. The limit of detection must be 20 %. At least two measurements under the same conditions shall be made in order to check the compliance with the limit value.

**Operation of the installation.**

3. Measurements shall only be valid if sampling takes place while the installation is operating normally.

**Selecting the sampling point.**

4. Sampling shall take place at a point where there is a laminar flow of air. As far as possible, care shall be taken to avoid turbulence and obstacles which might disrupt the flow of air.



**Modifications required for sampling.**

5. Suitable apertures shall be made in ducts where sampling is to take place and proper platforms shall be provided.

**Measurements to be taken before sampling.**

6. Before sampling commences, it is first necessary to measure air temperature and pressure and the velocity of flow in the duct. Air temperature and pressure shall normally be measured along the sampling line at normal flow rates. Under exceptional conditions, it is also necessary to measure the water vapour concentration so that the results can be amended accordingly.

**General requirements of the sampling procedure.**

7. The procedure requires a sample of air from a duct carrying the emissions of asbestos dust to be drawn through a filter, and the asbestos content of the dust retained in the filter to be measured.

7.1. The sampling line shall first be checked to ensure that it is airtight and that there are no leaks which might give rise to measurement errors. The sampler head shall be carefully sealed off and the sampler pump started up. The rate of leakage shall not exceed 1 % of the normal sampling flow.

7.2. Normally sampling shall be conducted under isokinetic conditions.

7.3. Duration of sampling shall depend on the type of process being monitored and the sampling line used and the sampling period shall be sufficient to ensure that an adequate quantity of material is collected for weighing. It shall be representative of the full process being monitored.

7.4. When the sampler filter is not in the immediate proximity of the sampler head, it is essential to recover materials deposited in the sampling probe.

7.5. The sampler head and the number of points where samples must be taken shall be determined in accordance with the national standard adopted.

**Nature of the sampler filter.**

8. The filter appropriate to the technique of analysis used shall be chosen. For the gravimetric method, glassfibre filters are preferable.

8.1. A minimum filtration efficiency of 99% is required, as defined with reference to the DOP test using an aerosol with particles of 0,3 µm diameter.

#### **Weighing.**

9. An appropriate high precision balance shall be used.

9.1. In order to achieve the accuracy required for weighing it is essential to condition filters thoroughly before and after sampling.

#### **Expression of results.**

10. In addition to measurement data, results shall record temperature, pressure and flow data and shall include all relevant information, such as a simple diagram showing the location of sampling points, the dimensions of ducts, the volumes sampled and the method of calculation used to obtain the results. These results shall be expressed at normal temperature (273 K) and pressure (101,3 kPa).

#### **Countable fibres method.**

11. Where fibre counting procedures are used for the purpose of checking compliance with the limit value in section 112 of the Act, a conversion factor of two fibres/ml to 0,1 milligram per cubic metre of asbestos dust may be used. For the purposes of sections 105 to 112 of the Act, a fibre is defined as any object of length greater than 5,µm, breadth less than 3,µm, and having a length/breadth ratio greater than 3/1, which is countable by phase contrast optical microscopy using the European reference method defined in Annex 1 of Directive 83/477/EEC.

#### **A fibre counting method shall meet the following specifications.**

12. The method shall be capable of measuring the concentration of countable fibres in the emitted gases. The Minister shall decide on the periodicity of such measures, according to the characteristics of the plant and of its production, but this should be at least every six months. Where periodical measures are not taken, the limit value specified in article 4 applies to the total dust emission. Sampling shall be conducted before any dilution of the flow to be measured.

#### **Operation of the installation.**

12.1. Measurement shall only be valid if sampling takes place while the installation is operating normally.

**Selecting the sampling point.**

12.2. Sampling shall take place at a point where there is a laminar flow of air. As far as possible, care shall be taken to avoid turbulence and obstacles which might disrupt the flow of air.

**Modifications required for sampling.**

12.3. Suitable apertures shall be made in ducts where sampling is to take place, and proper platforms shall be provided.

**Measurements to be taken before sampling.**

12.4. Before sampling commences, it is first necessary to measure air temperature and pressure, and the velocity of flow in the duct. Air temperature and pressure shall normally be measured along the sampling line at normal flow rates. Under exceptional conditions, it is also necessary to measure the water vapour concentration so that the results can be amended accordingly.

**General requirements of the sampling procedure.**

12.5. The procedure requires a sample of air from a duct carrying the emissions of asbestos dust to be drawn through a filter, and the countable asbestos fibres in the dust retained on the filter to be measured.

12.5.1. The sampling line shall first be checked to ensure that it is airtight, and that there are no leaks which might give rise to measurement errors. The sampling head shall be carefully sealed off and the sampling pump started up. The rate of leakage shall not exceed 1 % of the normal sampling flow.

12.5.2. Sampling of the emitted gases shall be conducted inside the emission duct under isokinetic conditions.

12.5.3. Duration of sampling shall depend on the type of process being monitored and the size of the sampling nozzle used. The sampling period shall be sufficient to ensure that the sample collection filter carries between 100-600 countable asbestos fibres/mm<sup>2</sup>. It shall be representative of the full process being monitored.

12.5.4. The sampling head and the number of points where samples must be taken shall be determined in accordance with the national standard adopted.

**Nature of the sampling collection filter.**

12.6. The filter appropriate to the technique of measurement shall be chosen. For the countable fibre method, membrane filters (mixed esters of cellulose or cellulose nitrate) of nominal pore size 5 mm, with printed squares and a diameter of 25 mm shall be used.

12.6.1. The sample collection filter shall have a minimum filtration efficiency of 99 % with respect to countable asbestos fibres.

**Counting of fibres.**

12.7. The fibre counting method shall conform to the European reference method, as set out in Annex I of directive 83/477/EEC.

**Expression of results.**

12.8. In addition to measurement data, results shall record temperature, pressure and flow data and shall include all relevant information, such as a simple diagram showing the location of sampling points, the dimensions of ducts, the volumes sampled and the market of calculation used to obtain the results. These results shall be expressed at normal temperature (273 K) and pressure (101,3 kPA).

## SCHEDULE 2

Section 56

### PROCESSES REQUIRING PROVISION OF SUITABLE GOGGLES OR EFFECTIVE SCREENS.

1. Dry grinding of metals, or articles of metal, applied by hand to a revolving wheel or disc driven by mechanical power.
2. Turning (external or internal) of non-ferrous metals, or of cast iron, or of articles of such metals or such iron, where the work is done dry, other than precision turning where the use of goggles or a screen would seriously interfere with the work, or turning by means of hand tools.
3. Welding or cutting of metals by means of an electrical oxyacetylene or similar process.
4. The following processes when carried on by means of hand tools or other portable tools—
  - (a) fettling of metal castings involving the removal of metal;
  - (b) cutting out or cutting off (not including drilling or punching back) of cold rivets or bolts from boilers and other plant or from ships;
  - (c) chipping or scaling of boilers or ships' plates;
  - (d) breaking or dressing of stone, concrete or slag.

**SCHEDULE 3**

Section 63

**PARTICULARS TO BE SUBMITTED BY OCCUPIER OF PREMISES  
(OTHER THAN A FACTORY) IN WHICH A STEAM BOILER IS USED.**

1. Name of the occupier of the premises.
2. Address and location of the premises.
3. Nature of the work carried on in the premises.
4. The following particulars in respect of each steam boiler in use—
  - (a) type, description and distinctive number;
  - (b) country and year of manufacture;
  - (c) date of the last thorough examination and name of person by whom the examination was made;
  - (d) maximum permissible working pressure in pounds per square inch.