

CHAPTER 347

FACTORIES

1983-17

This Act came into operation on 1st March, 1984 by Proclamation (S.I. 1984 No. 28).

Amended by:

1986-6

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

1987

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 347

FACTORIES 1983-17

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**BARBADOS****FACTORIES**

1983-17

An Act to revise and consolidate the law relating to factories and the safety, health and welfare of persons employed therein.

[Commencement: 1st March, 1984]

PART I**PRELIMINARY****Citation**

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

Definitions

2. For the purposes of this Act,
“agricultural purposes” includes
 - (a) purposes connected with
 - (i) dairy farming, cattle farming, sheep farming and the rearing of poultry or other livestock, or

- (ii) the production and storage of consumable produce grown for sale, consumption or other use or for the purpose of a trade or a business or other undertaking whether carried on for profit or not; and
- (b) the use of land for market gardening, horticulture, animal husbandry or similar purposes;

“building operations” means

- (a) the construction, structural alteration, repair or maintenance of a building (including repainting, redecoration and external cleaning of the structure);
- (b) the demolition of a building or the preparation for and laying the foundation of, an intended building, but does not include any operation that 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;

“competent person” means a person approved as such by the Minister for a specified purpose;

[1986-6]

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

“factory” means, subject to section 6,

- (a) any premises in which or on which or within the close or curtilage or precincts of which, persons, whether or not self-employed, work in connection with any process for or incidental to
 - (i) the slaughtering of cattle, sheep, swine, goats, poultry or other livestock,
 - (ii) the confinement of animals or livestock of any of the kinds referred to in subparagraph (i) pending their slaughter at other premises (in a case where the place of confinement is not

maintained primarily for agricultural purposes and is not part of premises used as a market in respect of such animals),

- (iii) any chilling or refrigeration connected with any manufacturing process or bulk storage and preservation of meat or other food,
- (iv) the making, formulating, altering, repairing, ornamenting, finishing, cleaning, washing, polishing, breaking up, demolition or adapting for sale, of any article or part thereof,

and in which, or within the close or curtilage of precincts of which, the work carried on is by way of trade or for profit and to or over which the employer of the persons employed therein has a right of access or control and includes any of the premises mentioned in paragraphs (b) to (m) in which persons are employed whether or not they are factories by virtue of this paragraph;

- (b) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;
- (c) premises in which or on which the business of sorting articles is done, being preliminary to work carried on in a factory or incidentally to the purposes of any factory;
- (d) premises in which or on which the business of washing or filling bottles or containers or the packing of articles is carried on incidentally to the purposes of a factory;
- (e) any laundry or dry cleaning operation or other related operation that is carried on ancillary to another business, or incidentally to the purposes of any public institution;
- (f) premises in which or on which the construction, re-construction or repair of vehicles or other plant for use for transport purposes is carried on as ancillary to a transport or other commercial undertaking or industrial undertaking, not being premises used for the purpose of housing vehicles where only cleaning, washing or minor adjustments are carried out;

- (g) premises in which
- (i) printing by letter-press, lithography, photogravure or other similar process, or
 - (ii) bookbinding,

is carried on by way of trade for purposes of gain or incidentally to another business so carried on;

- (h) premises in which mechanical power is used in connection with the making or repair of articles incidentally to any business carried on by way of trade or for purposes of gain;
- (i) premises in which or on 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;
- (j) any premises used for the storage of gas in a gas-holder having a storage capacity of not less than 150 cubic metres;
- (k) premises in which mechanical power is used for the purposes of, or in connection with, the pumping of water for public use or of sewage or oil;
- (l) premises in which the business of hooking, plaiting, lapping, making up or packing of yarn or cloth is being carried on;
- (m) premises in which or on which the business of making or mending nets is carried on incidentally to the fishing industry; or
- (n) premises on which machinery or equipment is being used (whether mechanically or otherwise) for agricultural purposes;

“factory doctor” means a medical practitioner designated as such by the Chief Labour Officer under section 97;

[1986-6]

“general register” means the register kept pursuant to section 90;

“inspector” means the Chief Labour Officer and any person authorised in writing by him under section 94 to be an inspector for the purposes of this Act;

[1986-6]

“lead paint” means any paint, paste, spray, stopping, filling or other material used in painting, which, when treated in the prescribed manner, yields to an aqueous solution of hydrochloric acid a quantity of soluble lead compound exceeding, when calculated as lead monoxide, 5 per cent of the dry weight of the portion taken for analysis;

“machinery” includes driving belt;

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

“maximum permissible working pressure” means

(a) in the case of a new steam boiler, that specified by the manufacturer; and

(b) in the case of a steam boiler examined under this Act, that specified in the report of the last examination; and

“maximum working load” in relation to hoists and lifts is to be construed accordingly;

“medical practitioner” has the meaning assigned to it by section 2 of the *Medical Registration Act*, Cap. 371;

“nuisance” includes a nuisance specified in the *Health Services (Nuisances) Regulations, 1969* (S.I. 1969 No. 159) wherever the nuisance arises in, or in connection with, a factory; except that, for the purposes of this definition section 47(2) is, subject to the regulations, to be substituted for paragraph (1) of regulation 4 of these regulations;

[1986-6]

“nurse” means a nurse within the meaning of the *Nurses and Midwives Registration Act*, Cap. 372;

“occupier” means the person who has control over a factory and the work that is done there;

“owner” means the person for the time being receiving rent for premises in connection with which the word is used, whether on his own account or as an agent or trustee for another person, or the person who would so receive the rent if the premises were let at a rent;

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

“public health inspector” means a Public Health Inspector within the meaning of the *Health Services Act, Cap. 44*;

“health and safety committee” means a health and safety committee referred to in section 102;

“safe working load” means

- (a) in the case of a new lifting rope, chain, tackle or machine, that specified by the maker or such working load not greater than that specified by the maker or may be specified by a competent person carrying out a test and examination; and
- (b) in the case of a lifting rope, chain, tackle or machine examined under this Act, not being a new lifting rope, chain, tackle or machine, that specified by a competent person in the report of the last examination;

“safe working pressure” means

- (a) in the case of a new steam receiver, that specified by the maker or such working pressure not greater than that specified by a competent person carrying out a test and examination; and
- (b) in the case of a steam receiver examined under this Act, not being a new steam receiver that specified by a competent person in the report of the last examination;

- “ship” has the meaning assigned to it under the *Shipping Act*, Cap. 296;
- “steam boiler” means any closed vessel in which, for any purpose, steam is generated under pressure greater than atmospheric pressure; and includes any economiser used to heat water being fed to any such vessel, and any super-heater used for heating steam;
- “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 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;
- “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;
- “woman” means a female person who has attained the age of 18 years;
- “work of engineering construction” means the construction, structural alteration or repair (including repointing and repainting) or the demolition of any airport, runway, dock, harbour, inland navigation works, tunnel, bridge, viaduct, waterworks, reservoir, pipe line, aqueduct, sewer, sewage works, gas holder, oil tank, road, race-track or foot-path and includes such other works so designated by the Minister by notice published in the *Official Gazette*;
- “workplace” means any place in which persons are employed but does not include a private household where persons are employed only in domestic service;
- “young person” means a person who has attained the age of 15 years but is under the age of 18 years.

PART II
GENERAL APPLICATION

General Application

3. This Act applies to
- (a) all factories as set forth in this Act;
 - (b) all factories occupied by the Crown;
 - (c) all factories occupied by statutory board or other public bodies; and
 - (d) all factories in which any work is being done or carried on for or on behalf of the public services or any statutory board or other public body.

Application to electrical stations

4.(1) This Act applies to premises in which persons are regularly employed in connection with any operation or process concerning the generating, transforming, converting, switching, controlling or regulating of electrical energy for supply

- (a) by way of trade;
- (b) for the purposes of any transport undertaking;
- (c) for the purposes of any industrial or commercial undertaking, public building or public institution; or
- (d) to streets or other public places,

as if the premises were a factory and the employer of any person employed in those premises in connection with any such work were the occupier of a factory.

(2) Parts I, II, XI and XIII to XV apply to premises other than those referred to in subsection (1) in which operations and processes mentioned in that

subsection are carried on or performed and are large enough to admit the entry of a person after the machinery and plant therein are in position.

(3) No premises referred to in subsection (2) shall be excluded from the application of this section on the ground that operations or processes are being carried on, or the machinery or plant is situated, entirely or partially in the open air.

(4) Subsections (1) and (2) do not apply to premises where operations or processes referred to in those subsections are only being carried on or performed for the immediate purpose of working an electric motor or working any apparatus that consumes electrical energy for lighting, heating, airconditioning, transmitting or receiving communications, unless the Minister, by order, otherwise directs.

(5) For the purposes of a factory as defined in this Act, electrical energy shall not be deemed to be an article, but except as set forth in this section, nothing affects the application of this section to factories as so defined.

Public emergency

5. The Minister may, in a case of public emergency, by order, to the extent and during the period named in the order, exempt factories generally or factories of any class or description from any of the provisions of this Act.

Extension of definition “factory”

6.(1) A part of a factory may, with the approval in writing of the Chief Labour Officer, be treated as a separate factory and, with like approval, 2 or more factories may be treated as a single factory.

(2) Where 2 or more persons, with the permission of or by virtue of an agreement with an owner or occupier of a place of work, engage at that place of work in an activity of such a nature as would constitute that place a factory if the

person engaging in the activity were in the employment of such owner or occupier, then

- (a) that place of work is to be treated as a factory for the purposes of this Act; and
 - (b) this Act applies as if
 - (i) such owner or occupier were the occupier of such factory, and
 - (ii) the persons taking part in the activity at such place of work were persons employed in such factory.
- (3) Where a place situate within the close, curtilage or precincts of premises forming part of a factory is used exclusively for some purpose other than the processes carried on in that factory, that place is not to be treated as part of the factory for the purposes of this Act; but shall, if it would otherwise be a factory, be deemed to be a separate factory.
- (4) Premises are not to be treated as not being a factory by reason only that they are open-air premises.
- (5) Where
- (a) premises are occupied; or
 - (b) building operations or works of engineering construction are undertaken,

for the use of or on behalf of the Public Service or any statutory board or other public body, the premises so occupied or in which the building operations or work of engineering construction are undertaken are not exempt from the operation of this Act by reason only that the work carried on on such premises is not carried on by way of trade or for purposes of gain.

PART III
SAFETY
GENERAL PROVISIONS

Fencing of machinery

7.(1) Every dangerous part of machinery on premises to which this Act applies must be securely fenced unless such machinery is in such a position or is so constructed as to be as safe to every person employed or working on the premises as it would be if securely fenced.

(2) Where the dangerous part of any machinery, by reason of the nature of an operation, cannot be securely fenced by means of a fixed guard, the requirements of subsection (1) shall be deemed to have been complied with if a device is provided that automatically prevents the operator from coming into contact with that part of the machinery while it is in motion or use.

(3) In determining, for the purposes of this section, whether any part of machinery is in such a position or is of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced, no account is to be taken of the carrying out, by any person, while that part of the machinery is in motion, of

- (a) any examination, lubrication, adjustment or other operation that is immediately necessary if that examination, lubrication, adjustment or other operation can only be carried out while that part of the machinery is in motion; or
- (b) any lubrication, mounting or slipping of belts by such methods and in such circumstances as maybe prescribed, in the case of any part of transmission machinery used in a process specified in the First Schedule or such other process where, owing to the continuous nature thereof, the stopping of that part would seriously interfere with the carrying out of the process.

- (4) Subsection (3) does not apply unless
- (a) the examination, lubrication, adjustment or other operation referred to therein is being carried out by persons who have attained the age of 18 years; and
 - (b) all conditions prescribed in the regulations relating to such activities are complied with.
- (5) All fencing or other safeguards provided in pursuance of this section shall be of substantial construction and shall be constantly maintained and, subject to the provisions of subsections (3) and (4), kept in position while the parts required to be fenced or otherwise safeguarded are in motion or in use.

Transmission machinery

8.(1) The following requirements, in addition to the requirements of section 7(1), shall be complied with in every case where there is transmission machinery in use at a factory, namely,

- (a) in every room or place where work is carried on, efficient devices or appliances by which the power that drives the machinery can be promptly cut off shall be provided and maintained;
 - (b) no driving-belt shall, when not in use, be allowed to rest or ride on any revolving shaft that forms part of the machinery; and
 - (c) suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and idle pulleys that form part of 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.
- (2) Where, in any case, the Minister is satisfied that owing to special circumstances compliance with any of the requirements of subsection (1) is unnecessary or impracticable, he may, by order, direct that that requirement need not be complied with in those circumstances.

Part of stock bar projecting beyond head stock of lathe to be securely-fenced

9. Any part of a stock bar that projects beyond the head stock of a lathe shall be securely fenced unless it is in such a position as to be as safe for every person employed or working on the premises as it would be if securely fenced.

Standards for construction of machinery

10.(1) Any machinery that, after 1st March, 1984 is imported into or constructed in Barbados to be driven by mechanical power shall be constructed in accordance with the following requirements, namely,

- (a) every set-screw, bolt or key on a revolving shaft, spindle, wheel or pinion must be so sunk, encased or otherwise effectively guarded as to prevent danger;
- (b) all spur and other toothed or friction gearing, that does not require frequent adjustment while in motion, must be entirely encased unless it is so situated as to be as safe as it would be if completely encased, and
- (c) no pre-owned or used machinery shall be installed or put into use in a factory unless it is examined and a certificate of fitness issued in respect of it by a competent person.

(2) Any person who sells or lets on hire or, as an agent of a seller or hirer, procures to be sold or let on hire for use in a factory, any machine constructed to be driven by mechanical power but which does not satisfy the requirements of subsection (1), is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or imprisonment for a term of 12 months.

(3) The Minister may, by order, extend the provisions of subsection (2) to any machinery or plant that is not in compliance with the requirements of this Act or the regulations and the order may relate to any machinery or plant in a process specified in the order.

(4) Proceedings in respect of an offence committed under this section must be commenced within the period of 12 months beginning from the date on which evidence, sufficient in the opinion of the Director of Public Prosecutions to justify a prosecution for the offence, comes to his knowledge and a certificate purporting to be signed by or on behalf of the Director of Public Prosecutions as to the date on which such evidence came to his knowledge is conclusive evidence thereof.

Fencing of places containing dangerous substances

11.(1) Every fixed vessel, structure, sump or pit, the edge of which is less than 1 metre above the highest adjacent ground or platform shall, if it contains any scalding, corrosive or poisonous liquid, be securely fenced to a height of not less than 1 metre or be securely covered.

(2) Where, by reason of the nature of work being carried on, fencing or covering as required by subsection (1) is not practicable, other steps shall be taken, to prevent any person from falling into the vessel, structure, sump or pit.

(3) Where a vessel, structure, sump or pit as described in subsection (1) is not securely covered, no ladder, stair or gangway shall be placed above, across or inside it unless the ladder, stair or gangway

(a) is at least 45 centimetres wide; and

(b) is securely fenced on both sides with sheet fencing on with an upper rail of not less than 1 metre high, an intermediate rail and toe-boards.

(4) Any vessel, structure, sump or pit as referred to in subsection (3) that is adjacent to another, and

(a) is separated from that other by a space, clear of any surrounding brick or other work, of less than 45 centimetres wide; and

(b) is not securely fenced on both sides to a height of at least 1 metre,

shall be so fitted with secure barriers as to prevent passage between them.

- (5) The Minister may,
- (a) by certificate issued under his hand, exempt any class of vessel, structure, sump or pit from the requirements of this section, on his being satisfied that in respect thereof compliance is unnecessary or inappropriate; or
 - (b) by order, extend any of the provisions of this section to
 - (i) any vessel or structure that is not fixed, or
 - (ii) any vessel, structure, sump or pit containing a substance that is not liquid,

and, in relation to any substance that is not liquid, the word “scalding” in a provision extended by virtue of subparagraph (ii) means likely to cause burns.

Self-acting machines

12.(1) Where the traversing part of a machine that has been installed after 1st March, 1984 runs over a space where a person is likely to pass, whether in the course of his employment or otherwise, the traversing part of the machine or any material carried thereon shall not at any time be permitted to run within 45 centimetres, in any direction, of any fixed structure that does not form part of the machine.

(2) The Minister may, subject to such conditions as to safety as he imposes, permit the continued use of a machine that was installed before 1st March, 1984 notwithstanding that it does not conform with the requirements of subsection (1).

Cleaning machines

13. No person shall be employed in the cleaning of any part of any machinery or machine if the cleaning would expose that person to risk of injury from any moving part of the machine or of any other machinery or machine adjacent thereto.

Training and Supervision of persons

14.(1) No person shall be employed at a machine to which this section applies unless

- (a) he has been fully instructed respecting
 - (i) the working of the machine,
 - (ii) the dangers arising in connection with it, and
 - (iii) the precautions to be observed while working in connection with the operation thereof; and
- (b) he has received sufficient training in the working of the machine or is adequately supervised during the course of his work in connection therewith.

(2) This section applies to those machines specified in the Second Schedule.

(3) The Minister may, by order, amend the Second Schedule by adding thereto any type of machine that in his opinion is so dangerous that no person should work at it unless, the requirements of subsection (1) are complied with.

Chains, ropes and lifting tackle

15.(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, namely,

- (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 posted in the store in which the chains, ropes or lifting tackle are kept, and in prominent positions on the premises, and no chain, rope or lifting tackle not shown

in the table shall be used; but the requirements of this paragraph do not apply in respect of any lifting tackle if its safe working load or in the case of a multiple sling, the safe working load at different angles of the legs, is clearly marked on it;

- (c) no chain, rope or lifting tackle shall be used for any load exceeding its safe working load as shown by the table mentioned in paragraph (b) or marked as mentioned in that paragraph;
- (d) all chains, ropes and lifting tackle in use shall be thoroughly examined by a competent person at least once in every period of 6 months or at such greater intervals as the Minister prescribes;
- (e) no chain, rope or lifting tackle, except a fibre rope or 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 competent person and a certificate of the test and examination specifying the safe working load, signed by the person making the test and examination, has been obtained and is kept available for inspection;
- (f) every chain and every lifting tackle, except a rope sling, shall, unless of a class or description specified in the Third Schedule, be annealed at least once in every 12 months and in the case of chains or slings of 12.5 millimetres bar or smaller, or chains used in connection with molten metal or molten slag, once in every 6 months, except that chains and lifting tackle not in regular use need be annealed only when necessary;
- (g) a register containing the prescribed particulars shall be kept in respect of all such chains, ropes or lifting tackle, except fibre rope slings.

(2) In this section, “lifting tackle” means chain slings, rope slings, rings, hooks, shackles and swivels.

[1986-6]

Cranes and lifting machines

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

(2) Every rail or track on which a travelling crane moves and every track on which the carriage of a transporter or runway moves

(a) shall be of proper size and adequate strength; and

(b) shall have an even running surface,

and every such rail or track shall be properly laid, adequately supported or suspended, and properly maintained.

(3) The following requirements apply in respect of machines of the type referred to in subsection (1), namely,

(a) every such machine shall, before being put into operation in a factory for the first time, be tested and all such parts and working gear as are specified in that subsection shall be thoroughly examined by a competent person and the machine certified as being fit to be put into operation in a factory;

(b) the certificate

(i) shall contain a statement as to the safe working load of the machine and such other details as the Minister requires;

(ii) shall be signed by the person issuing it; and

(iii) shall be kept available by the owner or occupier of the factory for inspection;

(c) all such parts and gear as are specified in that subsection shall be thoroughly examined by a competent person at least once in every 14 months and a register containing the prescribed details of every such

examination shall be kept available by the owner or occupier of the factory for inspection; and

- (d) if an examination reveals that a machine should not be used until repairs are carried out, a report containing details of the results of the examination shall be sent to the Chief Labour Officer within 7 days from the date of the examination.

(4) The safe working load of every machine that is used in connection with lifting or lowering shall be clearly marked thereon; but in the case of a jib crane that is so constructed that the safe working load may be varied by the lowering or raising of the jib, there shall be attached thereto

- (a) an automatic indicator of safe working loads; or
- (b) a table indicating the safe working loads at corresponding inclinations of the jib or corresponding radii of the load.

(5) No machine used in connection with lifting or lowering shall be loaded beyond the limit of its safe working load except for the purposes of a test.

(6) Where a person is employed or is working on or near the wheel-track of an overhead travelling crane in a place where there is a possibility of his being 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 a point within 6 metres of that place and the person so employed or working shall be informed of the measures that have been taken respecting his safety.

(7) Where a person is employed or is working otherwise than mentioned in subsection (6), but in a place above floor level that there is a possibility of his being struck by an overhead travelling crane, or by any load carried by such a crane, effective measures shall be taken to warn him of the approach of the crane and he shall be informed of the measures that have been taken respecting his safety, unless his work is so connected with or dependent on the movements of the crane as to make a warning unnecessary.

(8) For the purposes of this section, “machine used in connection with lifting or lowering” includes a lift, crane, crab, winch, teagle, pulley block, gin wheel, transporter or runway.

Fencing of doorways used for hoisting or lowering goods

17.(1) Every teagle opening or similar doorway used for hoisting or lowering goods or materials into or out of a factory, whether by mechanical power or otherwise, shall be securely fenced and provided with a secure hand-hold on each side of the doorway or opening.

(2) Any fencing provided pursuant to subsection (1) shall be properly maintained and shall, except while the hoisting or lowering of goods or materials is being carried on at the doorway or opening, be kept in position.

Hoists and lifts generally

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

(2) Every hoist or lift shall be thoroughly examined by a competent person before being put into service and thereafter at least once in every period of 6 months and a report of the result of every such examination shall, in such form and containing such particulars as the Minister determines, be signed by the person making the examination and shall within 21 days from the date of the completion of the examination, be entered in or attached to the general register; and in the case of

(a) a continuous hoist or lift; or

(b) a hoist or lift not connected with mechanical power

the examination shall be carried out at least once in every period of 12 months.

(3) Where an examination reveals that a hoist or lift can no longer be used with safety unless certain repairs are carried out immediately or within a specified

time, the person making the report shall, within 7 days of the completion of the examination send a copy of the report to the Chief Labour Officer.

(4) Every hoistway or liftway shall be efficiently protected by a substantial enclosure fitted with gates, and the enclosure shall be such 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.

(5) A gate referred to in subsection (4) shall be fitted with efficient interlocking or other devices so that the gate cannot be opened unless the cage or platform is at the landing and the cage or platform cannot be moved away from the landing until the gate is closed; but in the case of a hoist or lift constructed before 1st March, 1984 where it is not reasonably practicable to fit gates with such devices, it shall be sufficient if the gate is

(a) provided with such arrangements as will achieve the objects of this section so far as is reasonably practicable; and

(b) kept closed and fastened unless the cage or platform is at rest at the landing.

(6) Every hoist or lift and every enclosure mentioned in subsection (4) shall be so constructed as to prevent any part of any person or any part of any goods, carried thereon from being trapped

(a) between any part of the hoist or lift and any fixed structure; or

(b) between the counter-balance weight and other moving part of the hoist or lift.

(7) There shall be marked conspicuously on every hoist or lift the maximum working load that it can safely carry; and no greater load than such load shall be carried thereon.

(8) The following additional requirements apply in the case of hoists and lifts used for carrying persons whether together with goods or otherwise, namely,

(a) efficient automatic devices shall be provided and maintained to prevent the cage or platform from overrunning;

- (b) the cage shall be fitted with a gate on each side from which there is access to a landing;
 - (c) every gate shall be of such construction and design as not to render its users liable to injury and shall be fitted with efficient devices so that if persons or goods are in the cage, the cage cannot be raised or lowered unless the gate is closed, and will come to rest as soon as the gate is opened;
 - (d) the cage shall be provided with
 - (i) an audible emergency signal that is operative from inside the cage and clearly audible outside the hoistway or liftway, or
 - (ii) a telephone together with a notice posted informing passengers of the number to be dialled in the event of an emergency.
- (9) Where, in the case of a hoist or lift already in use in a factory at 1st March, 1984, it is not reasonably practicable to provide such devices as are mentioned in paragraph (c) of subsection (8), it is sufficient if
- (a) the arrangements provided achieve the objects of that paragraph so far as is reasonably practicable; and
 - (b) the gate is kept closed and fastened unless the cage is at rest or empty.
- (10) This section and any regulations or orders relating to hoists or lifts apply in respect of every hoist and lift, whether or not such hoist or lift is situate on premises to which this Act applies, but does not apply in respect of a hoist or lift that is used exclusively for domestic purposes and in which no person is carried.
- (11) Notwithstanding subsection (2), where a hoist or lift is situate wholly or partly on premises to which this Act does not apply, a copy of the report of any examination shall, within 14 days from the date of completion of the examination be sent to the Chief Labour Officer; and the owner or hirer shall take all reasonable steps to ensure that the provisions of this section and of any regulations or orders made in pursuance of this section are complied with.

Passenger-carrying hoist or lift constructed after 1st March, 1984

19. Where a hoist or lift used for conveying passengers has been constructed or reconstructed after 1st March, 1984, and its platform or cage is suspended by rope or chain,

- (a) there shall be at least 2 ropes or chains separately connected with the platform or cage, each rope or chain and its attachment being capable of carrying the whole weight of the platform or cage together with its maximum working load; and
- (b) efficient devices, capable of supporting the platform or cage with its maximum working load in the event of a breakage of the ropes or chains or of any of their attachments, shall be provided and maintained.

Application of sections 18 and 19

20.(1) Subsections (3) to (9) of section 18 and section 19 do not apply to continuous hoists or lifts.

(2) Subsections (5), (8) and (9) of section 18 and section 19 do not apply in the case of a hoist or lift that is not connected with mechanical power; and in a case respecting such a hoist or lift, any gate required to be fitted to the hoistway or liftway enclosure under section 18(4) shall be kept closed and fastened unless the cage or platform is at rest at the landing.

Exemption from sections 17 to 19

21. The Minister may, by order, exempt from any requirement of sections 17 to 19 or 20(2) any class or description of hoist, lift, hoistway or liftway or any teagle opening or similar doorway used for hoisting or lowering goods if, in any special circumstances, he is satisfied that insistence on compliance with that requirement would be unreasonable.

Dangerous ways, works or plant

22.(1) Every occupier shall

- (a) keep his factory so that the safety of persons in the factory is not likely to be endangered; and
- (b) take such precautions as are reasonable in the circumstances to ensure the safety of every person in the factory.

(2) Every part of any ways, works, plant or thing in a factory shall be of safe construction and sound material and shall be properly maintained; and every dangerous part of such ways, works, plant or thing shall be so enclosed, covered, fenced or otherwise effectively guarded as to prevent danger.

(3) No part of any ways, works, plant or thing shall be so overloaded as to create danger to any person in a factory.

Floors, passages and stairs

23.(1) All floors, steps, stairs, passages and gangways shall be of sound construction and shall be properly maintained and in so far as is reasonably practicable, shall be kept free from obstruction or any substance likely to cause persons to slip.

(2) For every staircase that is in a building or affords a means of exit from a building, a substantial hand-rail shall be provided and maintained, and

- (a) in the case of a staircase that has one open side, the hand-rail shall be on the open side; and
- (b) in the case of a staircase that has 2 open sides or is likely to be a source of accidents, owing to the nature of its construction or to the condition of the surface of the steps or other special circumstances, there shall be a hand-rail on both sides.

(3) Any open side of a staircase shall be guarded by a lower rail or other effective means which shall be properly maintained.

- (4) All openings in floors shall be securely fenced, except in so far as the nature of the work renders such fencing impracticable.
- (5) All ladders shall be of sound construction and shall be properly maintained.

Safe means of access and safe means of employment

24.(1) There shall, so far as is reasonably practicable, be provided and maintained a safe means of access to every place at which any person has at any time to work; and that place shall, so far as is reasonably practicable, be made and kept safe for any person working there.

(2) Where a person has to work at a place from which there is a possibility that he might fall from a height of more than 2 metres then, unless the place is one that affords a secure foothold and, where necessary, a secure handhold, means shall be provided, so far as is reasonably practicable, by fencing or otherwise, for ensuring his safety.

Dangerous fumes and lack of oxygen

25.(1) Subsections (2) to (7) have effect where work in any factory has to be done inside a chamber, tank, vat, pit, pipe, flue or similar confined space in which dangerous fumes, gases, smoke or vapours are likely to be present to such an extent as to involve risk of persons being overcome thereby.

(2) A confined space shall, unless there is other adequate means of egress, be provided with a rectangular, oval or circular manhole not less than 45 centimetres long and not less than 40 centimetres wide or, if circular, not less than 45 centimetres in diameter; and in the case of a tank, waggon or other mobile plant, not less than 40 centimetres long or less than 35 centimetres wide or, if circular, not less than 40 centimetres in diameter.

(3) Subject to subsection (4), no person shall, for any purpose, be made to enter or remain in a confined space unless

- (a) he is wearing suitable breathing apparatus in the use of which he has been trained;
- (b) he has been authorised to enter that space by a responsible person appointed in writing by the occupier; and
- (c) where practicable,
 - (i) he is wearing a belt with a rope securely attached thereto,
 - (ii) a person, keeping watch outside and capable of pulling him out, is at all times holding the free end of the rope, and
 - (iii) a person adequately trained in artificial respiration is readily available to render such assistance as may be needed.

(4) Subsection (3) does not apply where a confined space has been certified by a responsible person appointed in writing by the occupier as being, for a specified period, safe for entry without breathing apparatus and the period specified has not expired; but no person shall be permitted to enter or remain in such space unless he has been clearly warned as to when that period will expire.

(5) A confined space shall not be certified under subsection (4) as being safe for any period unless

- (a) effective steps have been taken to prevent any ingress of dangerous fumes;
- (b) all sludge or other deposit likely to emit dangerous fumes has been removed; and
- (c) the space
 - (i) is free of any other material capable of giving off dangerous fumes,

- (ii) has been adequately ventilated,
- (iii) has been tested for dangerous fumes, and
- (iv) has a supply of air adequate for respiration,

but, for the purposes of paragraphs (b) and (c)(i), no account shall be taken of any deposit or other material that is capable of giving off fumes in insignificant quantities only.

- (6) There shall be provided and kept readily available a sufficient supply of
- (a) suitable breathing apparatus;
 - (b) belts and ropes; and
 - (c) oxygen and suitable reviving apparatus,

the apparatus, belts and ropes being maintained and thoroughly examined at least once a month by a competent person or at such other intervals as may be prescribed; and a report of every examination containing such particulars as may be prescribed and signed by the person making the examination shall be kept available at the factory for inspection.

(7) The Chief Labour Officer may issue a certificate signifying, subject to such conditions as are specified in the certificate, the grant of exemption from compliance with any of the requirements of subsections (2) to (6) if he is satisfied that compliance with those requirements is unnecessary or impracticable.

- (8) No person shall be required to enter or remain in a confined space in which the proportion of oxygen in the air is liable to be substantially reduced unless
- (a) he is wearing a suitable breathing apparatus; or
 - (b) the space is adequately ventilated and is safe for entry without the use of breathing apparatus.

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

(10) A sufficient number of persons employed at a factory to which this section relates shall be trained and practised in the use of the apparatus mentioned in subsection (6) and in the method of respiration unless a certificate has been issued under subsection (7) in respect of that factory.

Storage of gas etc.

26. No gas or dangerous liquid of an explosive nature shall be stored in a factory.

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

27.(1) Where, as a result of any grinding, sieving or other process at a plant, dust capable of exploding on ignition is likely to escape, all practicable steps to prevent explosion shall be taken

- (a) by enclosing the plant;
- (b) by removing, the dust or preventing the accumulation thereof; and
- (c) by excluding or effectively enclosing the possible sources of ignition.

(2) Where a plant is not constructed so that it can withstand the pressure of an explosion, measures shall be taken to restrict the spread and effects of an explosion by the provision in connection with the plant, of chokes, baffles and vents or other equally effective appliances.

(3) Where any part of a plant contains explosive or inflammable gas or vapour under pressure that is greater than atmospheric pressure, then in order to prevent the gas from suddenly escaping and igniting, the following precautions shall be taken before that part of the plant is opened, namely,

- (a) before the fastening of a joint of any pipe connected with that part of the plant or the fastening of the cover of any opening into that part is loosened, any flow of gas or vapour into the part or into any such pipe shall be effectively stopped by a stop-valve or otherwise; and

- (b) before any such fastening is removed, all practicable steps shall be taken to reduce the pressure of the gas or vapour in the pipe or part of the plant to atmospheric pressure,

and if any such fastening has been loosened or removed, no explosive or inflammable gas or vapour shall be allowed to enter the pipe or part of the plant until the fastening has been secured or, as the case may be, securely replaced.

- (4) Subject to subsection (5), no plant, tank or vessel that contains or has contained any explosive or inflammable substance shall be subjected to

- (a) any welding, brazing or soldering operation;
- (b) any cutting operation involving the application of heat; or
- (c) any operation involving the application of heat for the purpose of taking apart or removing the plant, tank or vessel or any part thereof,

until all practicable steps have been taken to remove the substance and any fumes arising from it, 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.

- (5) The Chief Labour Officer may issue a certificate granting, subject to such conditions as are specified in the certificate, exemption from compliance with any of the requirements of subsections (3) and (4) if he is satisfied that compliance with those requirements is unnecessary or impracticable.

Steam boilers - restrictions on entry

28. No person shall enter or be in any steam boiler that is one of a range of 2 or more steam 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 the entry of steam or hot water 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 that
 - (i) cannot be removed until the valve or tap is closed, and
 - (ii) is the only key in use for that set of blow-off valves or taps.

Steam boilers - attachments and construction

29.(1) Subject to subsection (3), every steam boiler, whether separate or one of a range

- (a) shall have attached to it the devices mentioned in subsection (2);
 - (b) shall be provided with means for attaching a test pressure gauge;
 - (c) shall, unless externally fired, be provided with a suitable fusible plug or an efficient low-water alarm device.
- (2) The devices referred to in subsection (1) are
- (a) a suitable safety valve, separate from 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 fixed directly to, or as close as practicable to, the boiler and, if of the lever type, with the weight secured in the correct position;
 - (b) a safety valve, in addition to that required by paragraph (a) fitted at the superheater outlet end;
 - (c) a suitable stop valve connecting the boiler to the steam pipe;
 - (d) a correct steam pressure gauge connected to the steam space easily visible by a boiler attendant, indicating the pressure of steam in the boiler in kilograms per square centimetre, and having marked thereon in a distinctive colour the maximum permissible working pressure;

- (*e*) subject to subsection (4), at least 2 water gauges of a transparent material or such other type of material as the Chief Labour Officer approves, to show the water level in the boiler, together with, if any gauges are of the glass tubular type and the working pressure of the boiler normally exceeds 2.8 kilograms per square centimetre, an efficient guard provided so as not to obstruct the reading of the gauge;
 - (*f*) where the boiler is one of 2 or more boilers, a plate bearing a distinctive number that is clearly visible; and
 - (*g*) a blow-down cock or valve.
- (3) Paragraph (*c*) of subsection (2) does not apply in respect of economisers, and paragraphs (*d*), (*e*), and (*f*) of that subsection and paragraphs (*b*) and (*c*) of subsection (1) do not apply in respect of economisers or superheaters.
- (4) Notwithstanding paragraph (*e*) of subsection (2), the Chief Labour Officer may permit the use of one water gauge where he considers two to be unnecessary.
- (5) Every part of every steam boiler shall be of good construction, sound material, adequate strength and free from patent defect.

Steam boilers maintenance, examination and use

30.(1) Every steam boiler and all its fittings and attachments shall be properly maintained.

- (2) A steam boiler shall not be used in any factory unless
- (*a*) it has been examined by a competent person together with its fittings and attachments, in such a manner as the Minister prescribes; and
 - (*b*) no greater period than 12 months has elapsed since the examination,
- but the Minister may, in special circumstances, by order, extend the time within which a boiler that has been examined as required may be used in a factory without being again examined.

(3) The Minister may prescribe the manner in which a steam boiler, together with its fittings and attachments, shall be examined after the carrying out of such repairs as he directs and where the repairs are carried out to a steam boiler after it has been examined pursuant to subsection (2), then, notwithstanding that the period prescribed by virtue of that subsection has not expired, the steam boiler shall not be used in any factory until the examination prescribed under this subsection has been made.

(4) A report of the result of every examination under this section

- (a) shall be in such form as the Minister determines;
- (b) shall contain such information as the Minister requires (including the maximum permissible working pressure); and
- (c) shall, not less than 15 days after the examination or such extended period as the Minister allows, be entered in or attached to the general register kept by the owner or occupier of the factory and a copy of such report sent to the Chief Labour Officer not less than 28 days after the examination.

(5) Every report made under subsection (4) shall be signed by the person carrying out the examination.

(6) No new steam boiler shall be put into operation unless

- (a) there has been obtained from the manufacturer thereof or from a competent person a certificate in which there is stated the maximum permissible working pressure of the boiler and the nature of the tests to which the boiler and the fittings have been submitted; and
- (b) the boiler has been made to undergo at the site a hydrostatic test of at least 1½ times the maximum permissible working pressure, having regard to the type of boiler, the test being carried out and certified by a competent person,

and every certificate obtained under this section shall be kept for inspection by the Chief Labour Officer or an inspector and the boiler to which the certificate

relates shall be so marked as to enable it to be easily identified as the boiler to which the certificate relates.

(7) Where a report of an 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.

(8) A person making a report of an examination under this section shall, within 15 days after the examination or such extended period as the Minister in any special case allows, send to the Chief Labour Officer a copy of the report in every case where the maximum permissible working pressure is reduced, or the examination shows that the boiler can no longer be used with safety unless certain repairs are carried out immediately or within a specified time.

(9) A person employed to make an examination for the purposes of this section who

- (a) fails to make a thorough examination;
- (b) makes a report that is false or deficient in any material particular; or
- (c) fails to send a report to the Chief Labour Officer in accordance with subsection (8),

is guilty of an offence and is liable on summary conviction to a fine of \$500.

(10) Where there is any doubt as to the thoroughness of an examination, the Chief Labour Officer may require a boiler to be re-examined by one or more competent persons and the occupier shall provide the necessary facilities for the re-examination.

(11) The fee payable in respect of an examination or a re-examination of a steam boiler shall be such as the Minister prescribes.

(12) A person who is

- (a) an employee of the occupier of a factory in which a steam boiler is situate;
- (b) an employee of the owner or hirer of such boiler;

- (c) a repairer of that boiler; or
- (d) a shareholder or director in a firm or company owning, using or leasing the boiler,

is not competent to examine such boiler for the purposes of this section.

(13) Where the headers and drums of steam boilers are of fusion welded or solid forged construction the period between examinations may be extended by the Chief Labour Officer to 24 months.

(14) Subsection (13) applies in respect of

- (a) boilers of evaporative capacity of not less than 22 680 kilograms of steam per hour;
- (b) boilers in a group of boilers, each having evaporative capacity of not less than 11 340 kilograms of steam per hour the total evaporative capacity of all boilers not being less than 45 360 kilograms of steam per hour; and
- (c) waste heat boilers, heat exchangers or superheaters, being an integral part of a continuous flow installation in a chemical or oil refining process unit.

Steam receivers and steam containers

31.(1) Every steam receiver that is not constructed and maintained in such a manner as to enable it to withstand with safety the maximum permissible working pressure of the boiler or the maximum pressure that 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 being exceeded;
- (b) one of the following:
 - (i) a suitable safety valve so adjusted as to permit the steam to escape as soon as the safe working pressure is exceeded, or

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- (ii) a suitable appliance for cutting off automatically the supply of steam as soon as the safe working pressure is exceeded;
 - (c) a correct steam pressure gauge that indicates, in kilograms per square centimetre, the pressure of steam in the receiver;
 - (d) a suitable stop valve; and
 - (e) except where only 1 steam receiver is in use, a plate bearing a distinctive number that is easily visible.
- (2) Every safety valve and pressure gauge shall be fitted on the steam receiver or on the supply pipe between the receiver and the reducing valve or other appliance so as to prevent the safe working pressure being exceeded.
- (3) Where any set of receivers is supplied with steam through a single pipe and the reducing valve or other appliance required by paragraph (a) of subsection (1) is fitted on that pipe, the set shall be treated as one receiver for the purposes of subsection (2) and paragraphs (a) to (c) of subsection (1), and also for the purposes of paragraph (d) of subsection (1) if the set forms part of a single machine.
- (4) Every part of every steam receiver shall be of good construction, sound material, adequate strength and free from patent defect.
- (5) Every steam receiver and its fittings shall be properly maintained and shall be thoroughly examined by a competent person, so far as the construction of the receiver permits, at least once in every period of 12 months.
- (6) A report of the result of every examination made pursuant to subsection (5) containing the prescribed particulars (including the particulars of the safe working pressure) shall be entered in or attached to the general register.
- (7) Every steam container shall be so maintained as to ensure that the outlet is at all times kept open and free from obstruction.

- (8) A steam receiver shall not be used in any factory
- (a) unless it has been examined by a competent person together, with its fittings and attachments, in such a manner as the Minister prescribes; and
 - (b) provided that no greater period than 12 months has elapsed since the examination,

but the Minister may, in special circumstances, by order, extend the time within which a steam receiver that has been examined as required may be used in a factory without being again examined.

Air receivers

- 32.(1)** Every air receiver
- (a) shall have marked on it so as to be plainly visible the safe working pressure thereof;
 - (b) shall, if it is connected with an air compressing plant, be either so constructed as to withstand with safety the maximum pressure that 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;
 - (c) shall 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;
 - (d) shall be fitted with a correct pressure gauge indicating the pressure in the receiver in kilograms per square centimetre;
 - (e) shall be fitted with a suitable appliance for draining the receiver;
 - (f) shall be provided with a suitable manhole, handhole or other means that will allow the interior to be thoroughly cleaned; and
 - (g) shall in a case where more than 1 receiver is in use in a factory, bear a distinguishing mark that is easily visible.

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- (2) For the purposes of any provision of subsection (1) that relates to safety valves and pressure gauges any set of air receivers supplied with air through a single pipe may be treated as 1 receiver; but, where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, only if the valve or appliance is fitted on that 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 12 months except that, in the case of a receiver of solid drawn construction,
- (a) the person making the examination may specify in writing a period exceeding 12 months but not exceeding 2 years within which the next examination shall be made; and
 - (b) if the construction is of such that the internal surface cannot be thoroughly examined, an external examination shall be carried out at least once every 12 months and a hydrostatic test carried out at least once every 4 years.
- (5) Every examination and test required to be carried out under subsection (4) shall be carried out by a competent person and a report of every such examination and test containing the prescribed particulars (including particulars of the safe working pressure) shall be entered in or attached to the general register and a copy of the report submitted to the Chief Labour Officer within 28 days of the examination.
- (6) An air receiver shall not be used in any factory unless
- (a) it has been examined by a competent person, together with its fittings and attachments, in such a manner as the Minister prescribes; and
 - (b) no greater period than 12 months has elapsed since the examination,

but the Minister may, in special circumstances, by order, extend the time within which an air receiver that has been examined as required may be used in a factory without being again examined.

- (7) For the purposes of this section, “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 purpose of starting an internal combustion engine;
 - (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,

but paragraph (e) of subsection (1) does not apply to a vessel mentioned in paragraph (c) or (d).

Certification by fire authority of fire escape

33.(1) Subject to subsection (2), no premises shall be used as a factory to which this section applies unless there is in force in respect of those premises a certificate issued by the Chief Fire Officer to the effect that those premises are provided with such means of escape in case of fire for the persons employed in the factory as may reasonably be required in the circumstances.

(2) Where premises are in use as a factory at 1st March, 1984 or are sought to be used as a factory after 1st March 1984, an application in such form as the Minister approves shall be made to the Chief Fire Officer for the certification of those premises as having been provided with a sufficient means of escape in case of fire, such application being accompanied by such plan or drawing of the premises and other information as may be prescribed; and where an occupier

complies with this section, no liability attaches to him in respect of the use of those premises during the period between the making of the application and the grant or refusal of a certificate in respect thereof.

(3) The Chief Fire Officer may, upon an application being made to him, issue a certificate or, as the case may be, refuse to issue a certificate until certain alterations, as he specifies are carried out to the premises within such time as he specifies and, if those alterations are not carried out, the issue of a certificate shall be deemed to have been refused at the end of the time specified for the alterations to be carried out or at the end of such further period as the Chief Fire Officer allows.

(4) The Chief Fire Officer or an officer of the Fire Service authorised by him in writing shall inspect every factory to which this section applies and, upon being satisfied that a factory is equipped with such means of escape as mentioned in subsection (1), issue in respect of the factory a certificate under this section.

(5) In a certificate issued under subsection (4), there shall be specified precisely but in detail

- (a) the means of escape with which the factory inspected is equipped;
- (b) particulars of the number of persons employed or proposed to be employed in the factory as a whole and, if the person making the inspection thinks fit, in any specified part of the factory; and
- (c) particulars of any explosives or highly inflammable material stored or used and any other matters taken into account in granting the certificate.

(6) A certificate issued pursuant to subsection (4) shall be attached by the occupier to the general register and a copy sent by the Chief Fire Officer to the Chief Labour Officer.

(7) Any occupier who uses premises in contravention of this section is guilty of an offence and liable on summary conviction to

- (a) a fine of \$1 000; and

- (b) a fine of \$100 for each day on which the contravention continues after the date on which the conviction was first obtained.

Factories to which section 33 applies

34. Section 33 applies to

- (a) every factory in which more than 20 persons are employed at any one time;
- (b) every factory constructed before the month of September, 1959 in which more than 10 persons are employed in the same building above the first floor of the building or more than 20 feet above ground level;
- (c) every factory
- (i) that was being constructed or converted for use as a factory during the month of September, 1959 or was so constructed or converted after that date, and
- (ii) in which more than 10 persons are employed elsewhere than on the ground floor of the building;
- (d) every factory in or under which explosives of highly inflammable materials are stored or used; and
- (e) any factory or such class or description of factory as the Minister may, by order, specify.

Maintenance and inspection

35.(1) All means of escape in a factory specified in a certificate issued by the Chief Fire Officer shall be properly maintained and kept free from obstruction.

(2) The Chief Fire Officer shall, annually or at shorter intervals if he so desires, examine those factories to which section 33 applies for the purpose of ascertaining whether there has been any change of conditions by reason of which the existing means of escape in case of fire have become insufficient.

(3) An occupier shall give notice in writing to the Chief Fire Officer of any proposal

- (a) to make any material extension or material structural alteration of the factory premises;
- (b) to increase materially the number of persons employed in the factory or in any part thereof specified in the certificate;
- (c) to begin to store or use explosive or highly inflammable material in the factory; or
- (d) to materially increase the extent of such storage or use,

after a certificate has been issued under section 33.

(4) If the Chief Fire Officer is,

- (a) on receipt of a notice referred to in subsection (3), of the opinion that the condition with respect to escape in case of fire will be affected; or
- (b) at any time satisfied that, by reason of the 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.

(5) Where it appears to an inspector that dangerous conditions respecting means of escape in case of fire exist in any factory to which section 33 applies, he shall give notice thereof in writing to the Chief Fire Officer, who shall, upon receiving such notice, examine that factory and if necessary require the occupier by notice in writing to make within a specified period such alterations as may be necessary.

(6) An occupier shall, within the period specified in a notice given under subsection (4) or (5), carry out the alterations required by such notice, and,

- (a) upon the alterations being carried out, the Chief Fire Officer shall
 - (i) amend the certificate issued in respect of that factory, or

(ii) issue a new certificate,

and send a copy of the amended certificate or, as the case may be, the new certificate to the Chief Labour Officer; or

(b) upon failure of the occupier to carry out the alterations as required, the Chief Fire Officer shall, without prejudice to the taking of proceedings against the occupier cancel the certificate and inform the Chief Labour Officer in writing accordingly.

(7) Where it appears to the Chief Labour Officer that the conditions in respect of means of escape in the case of fire in a factory to which section 33 applies are so dangerous that the factory or any part thereof ought not to be used at all or ought not to be used for a particular process or work until steps have been taken to make the conditions safe, he may, after consultation with the Chief Fire Officer, in lieu of serving a notice on the Chief Fire Officer under this section, make a complaint to a magistrate's court which, on being satisfied of those matters, may make an order prohibiting 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 that court necessary to remedy the danger.

Appeal against refusal of certificate

36.(1) An occupier of a factory who is aggrieved by reason of

- (a) the refusal of the Chief Fire Officer to grant a certificate under section 33;
- (b) the refusal by the Chief Fire Officer to amend or issue a new certificate under section 35;
- (c) any requirement for repairs or alterations to be made at his factory under section 30, 35 or 37;
- (d) the length of time within which he is required to comply with any requirement made under section 33 or 35; or

- (e) the cancellation by the Chief Fire Officer of a certificate issued to him under this Act,

may within 7 days of the decision apply to a magistrate's court to have the matter reviewed.

- (2) An occupier may operate a factory pending the determination of an application to a magistrate under this section.

Certificate in force where factory is not in conformity with regulations

37.(1) Where a factory in respect of which a certificate is in force is not in conformity with the regulations respecting escape in case of fire, the Chief Fire Officer shall serve notice on the occupier of that factory requiring him to make, within a specified period, such alterations as are necessary to bring the factory into conformity with the regulations.

- (2) Section 33(7) applies to a contravention of subsection (1) as it does in the case of a contravention of that section.

Safety provisions in case of fire

38.(1) While a person is in a factory for the purpose of employment or taking meals

- (a) the door of the factory and of any room therein in which he is; and
(b) any door that, for persons working in the factory, provides means of exit from any building or from any enclosure in which the factory is situate,

shall not be locked or fastened in such a manner that that door cannot be easily and immediately opened from the inside.

- (2) Any door opening on to a staircase or corridor from any room in which more than 10 persons are employed, and in the case of a factory constructed or converted for use after the 1st September, 1959 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.

(3) In any factory constructed, or converted for use as a factory, before the month of September, 1959, in which more than 10 persons are employed in the same building above the ground floor, any door at the foot of a staircase affording a means of exit from the building that is not kept continuously open, shall except in the case of sliding doors, be constructed to open outwards.

(4) Every hoistway or liftway inside a building constructed after 1st March, 1984 shall be completely enclosed with fire-resistant materials, and all means of access to the hoist or lift shall be fitted with doors of fire-resistant materials; except that any such hoistway or liftway that is not provided with a vent at the top, shall at the top be enclosed only by some material easily broken by fire.

(5) The Chief Fire Officer may, by certificate, grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of subsections (2) to (4) in a case where he is satisfied that compliance with those requirements is inappropriate or undesirable.

(6) 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 letters of adequate size having regard to the position and size of the exit.

(7) In every building that forms part of or comprises a factory to which section 33 applies, effective means, capable of being operated without exposing any person to undue risk, shall be provided and maintained for giving warning in case of fire, which warning shall be clearly audible throughout the building or, where the factory is only part of a building, in every part of the building that is used for the purposes of the factory.

(8) The Minister may, by order, grant exemption from or modify the requirements of subsection (7) in any case where he is satisfied that those requirements are unnecessary or, as the case may be, would, unless modified, be

unreasonable; and any such order may apply to any particular factory or part of a factory or any class or description of factory.

(9) 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.

Testing or examining fire warnings

39. There shall be examined and tested at least once during every period of 3 months, or more frequently, if an inspector so requires, every means of giving warning in case of fire required to be provided under this Act; and the date of every such examination and test together with particulars of any defect found and the date and particulars of any action taken to remedy the defect shall be entered in or attached to the general register.

Instructions as to use of means of escape in case of fire

40.(1) Where, in any factory,

- (a) more than 20 persons are employed in the same building above the first floor or more than 6 metres above ground level; or
- (b) 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, with their use, and with the routine to be followed in case of fire.

(2) For the purposes of paragraph (b) of subsection (1), storage shall be such as would prevent or minimise the spread of fire or be of such construction as would restrict the impact of an explosion.

Provision of fire fighting apparatus

41.(1) Except where the Minister, by order, otherwise directs, there shall be provided and maintained at every factory appropriate and adequate apparatus for fighting fire.

(2) Apparatus referred to in subsection (1) shall be placed in a position so as to be readily available for use.

(3) At least 1 person trained in the use of the apparatus for fighting fire should be readily available on the premises at all times when persons are employed in the factory.

Power of court to make orders as to dangerous conditions

42.(1) Where the Chief Labour Officer is satisfied that

- (a) any part of the ways, works, machinery or plant used in a factory is in such a condition, is so constructed or is so placed that it cannot be used without risk of bodily injury;
- (b) 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 or endanger health; or
- (c) a factory is in such a condition or is so constructed or placed that any process or work carried on therein or proposed to be carried on therein cannot be so carried on with due regard to the safety, health and welfare of the persons employed in that factory,

he may bring a complaint before a magistrate alleging the relevant fact contained in paragraphs (a) to (c).

(2) A magistrate may, after hearing a complaint brought before him in pursuance of subsection (1), make an order

- (a) prohibiting the use of the part of the ways, work, machinery or plant referred to in the complaint;

- (b) prohibiting the use of that part of the ways, work, machinery or plant until it is repaired or altered if it is capable of repair or alteration;
 - (c) requiring the occupier to take such steps as are specified in the order for remedying the danger complained of;
 - (d) prohibiting the use of the factory or any part thereof for the purpose of that process or work until such works as the court deems necessary to remove the danger have been carried out; or
 - (e) prohibiting the use of the process or substance complained of until adequate provision is made for its safe use.
- (3) Where a complaint is made to a magistrate under this section, the magistrate may,
- (a) on application, *ex parte*, by the Chief Labour Officer; and
 - (b) on receiving evidence that
 - (i) the use of any part of the ways, works, machinery or plant,
 - (ii) the carrying on of any process or work, the doing of anything or the use of any substance, or
 - (iii) the use of a factory or any part thereof in its present condition, pattern of construction or position,

exposes persons to risk of serious bodily injury or endangers their health, make an interim order prohibiting, either absolutely or subject to conditions, the use of the factory or, as the case may be, the carrying on or doing of anything therein until the earliest opportunity for hearing and determining the complaint.

Appeals

43. An appeal from an order of a magistrate made under section 42, other than an interim order, lies to the Divisional Court.

PART IV
ENVIRONMENTAL
GENERAL PROVISIONS

Cleanliness

44.(1) Every factory shall be kept in a clean state and free from effluvia arising from any drain, sanitary convenience and from nuisance.

(2) Without limiting or affecting the application of subsection (1)

- (a) workrooms shall be cleaned as often as the nature of the work carried on requires;
- (b) accumulations of dirt and refuse shall, by a suitable method, be removed from the floors and benches of workrooms, and from the staircases and passages not less than once each day;
- (c) the floor of every workroom shall be kept in a clean state by washing or by other suitable or effective means;
- (d) sweeping and cleaning shall be done during intervals between work and in a manner to prevent the raising of dust, unless otherwise directed by the Chief Labour Officer; and
- (e) where for practical purposes, cleaning cannot be done outside working hours, special precautions shall be taken to avoid contamination of the air with dust or any other noxious substances.

(3) Notwithstanding subsection (1), but subject to subsection (4), the following requirements apply in respect of all inside walls, partitions and ceilings or tops of rooms and all walls, sides and tops of passages and staircases, namely,

- (a) where they have a smooth impervious surface, they shall at least once in every period of 12 months, be washed with hot water and soap or other suitable detergent or cleaned by any other method that the Chief Labour Officer approves;

- (b) where they are kept painted in a prescribed manner or are varnished, they shall be repainted in like manner or revarnished at such intervals, not exceeding 3 years, as may be prescribed and shall, at least once in every period of 12 months, be washed with hot water and soap or other suitable detergent or cleaned by any other method that the Chief Labour Officer approves; and
 - (c) in any case other than contained in paragraphs (a) and (b), they shall be kept painted and shall be repainted at least once in every period of 12 months.
- (4) Except in a case where the Chief Labour Officer otherwise requires, subsection (3) must not be construed as applying to a factory where less than 10 persons are employed.
- (5) Where it appears to the Chief Labour Officer that in a factory or any part thereof any provision of this section is not required for the purpose of keeping the factory in a clean state, or is by reason of special circumstances inappropriate or inadequate for that purpose, he may, direct that such provision is not to apply to such factory or part thereof or is to apply as he otherwise determines.

Disposal of wastes and effluents

45.(1) Effective arrangements shall be made in every factory for the disposal of waste and effluents arising out of manufacturing processes carried on therein.

- (2) All receptacles used for waste or refuse
 - (a) shall be so constructed that
 - (i) they cannot leak,
 - (ii) they can be conveniently and thoroughly cleaned, and
 - (iii) they can be effectively covered or otherwise protected from the entry of insects and rodents;
 - (b) shall be maintained in a sanitary condition; and

- (c) shall be disinfected as often as is necessary.
- (3) All refuse shall be removed from the workrooms
 - (a) if possible, outside working hours;
 - (b) in such a manner as to avoid creating a hazard to health; and
 - (c) as often as is necessary to maintain the workroom in a sanitary condition.
- (4) There shall be provided and maintained in every factory, where necessary, adequate drains for the effective removal of waste water and such drains shall be provided with hydraulic seals or other effective devices to prevent the escape of effluvia.

Sanitary conveniences

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

- (a) for the lighting thereof;
 - (b) for their proper ventilation; and
 - (c) for the impossibility of any form of communication with any workroom except through the open air or an intervening ventilated space.
- (2) Where persons of both sexes are employed or proposed to be employed in a factory, conveniences provided pursuant to subsection (1) shall be adequate to afford proper and separate accommodation for persons of either sex and shall be so placed or screened that the interior is not visible, even when the door thereof is open, from another place where persons of the other sex work or pass.
- (3) Conveniences provided for persons of one sex that adjoin conveniences provided for persons of another sex
- (a) shall be provided with separate approaches; and

(b) shall be indicated by suitable notices showing the sex to which each convenience is allocated.

(4) Subsections (2) and (3) do not apply in respect of a factory where less than 10 persons are employed or the only persons employed are members of the same family.

Overcrowding

47.(1) A factory shall not be overcrowded.

(2) Without limiting or affecting the application of subsection (1) but subject to subsection (3), the number of persons employed at a time in any workroom shall be such that the amount of cubic space allowed for each person is not less than 8.5 cubic metres.

(3) In calculating the cubic space in a room, no more than 3.4 metres from the floor shall be taken into account and, where the room contains a gallery, the gallery is to be treated as if it were partitioned off from the remainder of the room and formed a separate room.

(4) Cubic space shall not be deemed to be allowed for any person unless it is kept clear from all materials, goods or tools other than those actually used or required by the person for whom the space is required to be allowed.

(5) Except the Chief Labour Officer otherwise allows, a notice shall be posted in every workroom specifying the number of persons who, having regard to the provisions of this section, may be employed in such room.

Lighting

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

(2) All glazed windows and skylights used for the lighting of workrooms shall, as far as practicable, be kept clean on both the inner and outer surfaces and free

from obstruction; but this subsection does not affect the whitewashing or shading of windows and skylights for the purpose of mitigating heat or glare.

Temperature

49.(1) Effective provision shall be made for securing and maintaining a reasonable temperature in each workroom, but no method shall be employed that results in the escape into the air of any workroom of any fume of such a character and to such extent as to be likely to be injurious or offensive to persons employed therein.

(2) Where a process carried on in a factory involves or is likely to involve the production of excessively high temperatures, such measures shall be taken as are practicable and adequate to protect the persons employed in connection with such process by separating from the workroom the process that produces those temperatures, either by insulating the hot parts or by some other effective means.

(3) Where it appears to the Chief Labour Officer that in any factory excessive temperatures can be reduced by a method such as

- (a) whitewashing, spraying or insulating and screening, outside walls or roof or windows;
- (b) raising the level of the roof of the building;
- (c) insulating the roof by
 - (i) constructing an air-space and double roof,
 - (ii) using of insulating roof materials, or
 - (iii) using any other effective method; or
- (d) increasing the number of air changes per hour within the factory,

he may, in writing, order any such method to be adopted.

Ventilation

- 50.** Effective and suitable provision shall be made in every factory
- (a) for the adequate ventilation of every room in which work is carried on by securing and maintaining the circulation of fresh air therein; and
 - (b) for rendering harmless, as far as practicable, all fumes, dust and other impurities that are likely to be injurious to health and generated in the course of any process or work carried on in the factory.

Drainage of floors

- 51.** Where any process is carried on that renders a floor liable to be wet to such an extent that the liquid causing the wet condition is capable of being removed by drainage, effective means shall be provided and maintained for the draining off of such liquid.

Noise

- 52.(1)** The owner or occupier of a factory shall take all practical steps to maintain the level of noise below a level likely to be injurious to persons working therein.
- (2) Where the level of noise within a factory cannot be reduced below a level likely to be a hazard to the health of persons working in that factory, such persons shall be provided with adequate protection from the effect of noise.

PART V
WELFARE
GENERAL PROVISIONS

Supply of drinking water

53.(1) There shall be provided and maintained at suitable points accessible to all persons employed in a factory an adequate supply of wholesome, cool drinking water supplied from a public main or from some other source approved in writing by the Chief Labour Officer.

(2) A supply of drinking water that 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 the Chief Labour Officer directs, be clearly marked “Drinking Water”.

[1986-6]

(3) All drinking water facilities shall be placed at such distance from the nearest convenience or washing facility as the Chief Labour Officer directs.

[1986-6]

[1986-6]

Washing facilities

54.(1) There shall be provided and maintained for the use of employed persons adequate and suitable facilities for washing which shall include a supply of clean running water and, in addition, soap and clean towels or other suitable means of cleaning or drying; and the facilities shall be conveniently accessible and shall be kept in a clean and orderly condition.

(2) The Chief Labour Officer may, by certificate in writing, modify any of the requirements of subsection (1) in any case where there is difficulty in obtaining an adequate supply of water or in other special circumstances.

[1986-6]

(3) A certificate referred to in subsection (2) shall be subject to such conditions and be for such period as may be specified therein and such certificate may be modified, varied or revoked.

Lunch rooms

55.(1) Where 10 or more persons are at any one time employed in a factory there shall be provided and maintained in such factory for the use of all the persons employed therein a suitable and adequate room furnished with an adequate number of tables and seats for the taking of meals.

(2) An occupier of a factory that is in operation at 1st March, 1984 shall, if that factory is not operated in accordance with the requirements of subsection (1), within a period of 2 years after that date cause that subsection to be complied with.

(3) Notwithstanding subsections (1) and (2) the Chief Labour Officer may in writing permit the operation of a factory with such modifications to the requirements of this section as he deems proper.

Accommodation for clothing

56.(1) Where change of clothing is necessary, a room with sufficient space for the purpose of the changing of clothing shall be provided.

(2) There shall, in addition to subsection (1), be provided and maintained in every factory for the use of persons employed therein adequate and suitable accommodation for clothing not worn during working hours.

(3) Where persons of different sexes are employed in a factory, separate provision shall be made under subsection (1) for persons of each sex.

(4) The Chief Labour Officer may by certificate under his hand exempt any factory from the requirements of this section where, by reason of any special circumstances, the application of such requirements would in his opinion be unreasonable.

Rest rooms

57.(1) Where 10 or more persons are employed at any one time in a factory, there shall be provided and maintained and kept under the supervision of a person appointed by the occupier a suitable rest room

- (a) affording adequate privacy; and
- (b) equipped with adequate facilities for resting.

(2) Where less than 10 persons are employed in a factory and no rest room is available, a suitable place that is capable of being properly screened shall be provided and made suitable for the use of female employees in the same manner as a rest room under subsection (1).

Sitting facilities

58.(1) Where employed persons have in the course of their employment, reasonable opportunities for sitting without any adverse effect on their work, there shall be provided and maintained for their use suitable facilities for sitting sufficient to enable them to take advantage of those opportunities.

(2) When a substantial proportion of any work can be properly done sitting, there shall be provided and maintained for an employed person doing that work a seat of a design and construction and of a dimension suitable for him and the work, together with a foot-rest on which he can readily and comfortably support his feet if he, cannot do so without a foot-rest, and the arrangements shall be such that the seat is adequately and properly supported while in use for the purpose for which it is provided.

(3) For the purposes of subsection (2), the dimensions of a seat that is adjustable shall be taken to be its dimension as for the time being adjusted.

First-aid

59.(1) There shall be provided and maintained so as to be readily accessible a first-aid box or first-aid cupboard of a standard approved by the Chief Labour

Officer and where more than 150 persons are employed, there shall be an additional box or cupboard for each additional 150 persons.

(2) For the purposes of subsection (1), the number of persons employed in a factory shall be taken to be the largest number of persons employed therein at any time, and any fraction of 150 shall be treated as 150.

(3) Nothing, except appliances or requisites for first-aid, shall be kept in a first-aid box or first-aid cupboard, and the Chief Labour Officer may give directions, either generally or in relation to a particular factory as to the minimum appliances and requisites to be kept for the purposes of first-aid.

[1986-6]

(4) Each first-aid box or first-aid cupboard shall be placed under the charge of a responsible person who shall, in the case of a factory where more than 50 persons or more than such smaller number as the Minister by order prescribes are employed, be trained in first-aid treatment, and the person in charge shall always be readily available during working hours.

[1986-6]

(5) In every workroom there shall be affixed a notice on which is stated the name of the person in charge of the first-aid box or cupboard provided in respect of that workroom.

(6) For the purposes of subsection (4) a person shall not be deemed to be trained in first-aid treatment unless he satisfies such conditions as the Minister prescribes.

[1986-6]

(7) Failure to comply with subsection (4), in so far as it is required by that subsection that the person in charge of a first-aid box or first-aid cupboard shall be trained in first-aid treatment, constitutes an offence; but it is a defence in any proceedings if the court is satisfied that the accused made all reasonable efforts to secure compliance but was unable to do so.

(8) If a nurse is employed in a factory for the purpose of rendering first-aid treatment to persons employed in that factory, the Chief Labour Officer may by

certificate exempt that factory from the requirements of this section to such extent and subject to such conditions as he specifies in the certificate.

[1986-6]

[1986-6]

PART VI

WORKING ENVIRONMENT

Removal of gas, dust or fumes

60.(1) Where, in connection with any process carried on in a factory, there is given off any substantial quantity of gas or dust of any kind, or any gas, dust, fume or other impurity of such a character and to such an extent as to be likely to be injurious or offensive to the persons employed therein, all practicable steps shall be taken to protect those persons against inhalation of the gas, dust or fume or other impurity and to prevent it 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 gas, dust, fume or other impurity so as to prevent its entering the air of any workroom.

(2) No internal combustion engine shall be used unless

- (a) provision is made for conducting exhaust gases given off from the engine into the open air; and
- (b) the engine, except when used for the purpose of being tested, is so partitioned off from any workroom in which persons are employed, other than persons attending to the engine, as to prevent any injurious fumes from the engine entering the air of the room or part of the room.

(3) No gas, dust, fume or other impurity referred to in subsection (1) or given off pursuant to subsection (1) and no exhaust gases given off pursuant to

paragraph (a) of subsection (2) shall be conducted into the open air if they are of such a nature as to be likely to cause injury to the public.

Meals in certain dangerous trades

61.(1) Where in any room lead, arsenic or any other poisonous substance is so used as to give rise to any dust or fume, no person shall be permitted to partake of food or drink or to smoke in that room or to remain in that room during the intervals allowed him for meals or rest, other than intervals allowed in the course of a spell of continuous employment.

(2) Where, in any room, a process prescribed by the Minister is carried on, being a process that gives rise to siliceous dust or asbestos dust, no person shall be allowed to remain in that room during the intervals allowed him for meals or rest other than intervals allowed in the course of a spell of continuous employment.

[1986-6]

(3) Suitable provision shall be made for enabling the persons employed in any room described in subsections (1) and (2) to take their meals in some other suitable part of the factory.

(4) Where it appears to the Minister that, by reason of the nature of any process, it is injurious to health or otherwise undesirable to take meals in rooms where that process is carried on or to remain therein during the intervals allowed for meals or rest, he may, by order, extend any of the provisions of subsections (1) and (3) to rooms where that process is carried on.

[1986-6]

Special protective equipment

62. In the case of any process that the Minister prescribes, being a process involving a special risk of injury to persons employed in connection with that process, suitable protective gear shall, in accordance with any prescribed directions, be provided for the protection of the persons employed in that process.

[1986-6]

Underground rooms

63.(1) The Chief Labour Officer may certify any underground room as unsuitable for work other than work involving the use of the room for the purpose of storage or such other purpose as the Minister by order, specifies; and, where a room is so certified, no work for which it is certified as unsuitable shall be carried on in it.

(2) Where the Chief Labour Officer certifies as unsuitable any room that is in actual use, he shall suspend the operation of the certificate for such period as he considers reasonable with a view to enabling the occupier to render the room suitable or to obtain other premises.

[1986-6]

(3) No underground room shall be used as a work place unless it is certified for use as such by the Chief Labour Officer.

[1986-6]

(4) An occupier of a factory in which an underground room is used as a workplace at 1st March, 1984 shall, within a period of 12 months from that date, apply to have the room certified as required by subsection (3) and on failure to have the room certified shall cease to use that room as a workplace.

(5) An occupier of a factory who has been refused permission by the Chief Labour Officer to use an underground room under this section may, within 21 days from the date of notification of refusal of permission make application to a magistrate to have his case reviewed and, pending the final determination of the application, no offence shall be deemed to be committed in respect of the room to which the application relates.

[1986-6]

(6) A certificate issued in accordance with this section may be withdrawn by the Chief Labour Officer if such alterations are made as in his opinion render the room suitable.

[1986-6]

(7) For the purposes of this section,

“underground room” means any room that is so situate or any part of which is so situate that at least half its height (measured from the floor to the ceiling) is below the surface of the foot-path of the adjoining street or below the surface of the land adjoining or nearest the room; and

“unsuitable” means unfit

- (a) in relation to construction, height, light, ventilation or hygienic conditions; or
- (b) by reason of inadequacy or means of escape in case of fire.

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Laundries

64. The following provisions relate to laundries in addition to the other provisions of this Act relating to health and welfare:

- (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 ironing rooms and ironing tables as to protect the employees from the heat thereof; and
- (c) no gas iron that emits noxious fumes shall be used.

Lifting excessive weights

65. Subject to the regulations, no person shall be employed to lift, carry or move any load so heavy as to be likely to cause injury to him.

Prohibition of employment of women and young persons in certain processes connected with lead manufacture

66. No woman or young person shall be employed in any of the following, namely,

- (a) work at a furnace involving the reduction or treatment of zinc or lead ores;
- (b) the manipulation, treatment or reduction of ashes containing lead, the desilverising of lead or the melting of scrap lead or zinc;
- (c) the manufacture of solder or alloys containing more than 10 per cent lead;
- (d) the manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead;
- (e) mixing or pasting in connection with the manufacture or repair of electric accumulator or the recovery of plates or lead compounds from discarded accumulators;
- (f) the cleaning of workrooms where any of the processes mentioned in paragraphs (a) to (e) are carried on; or
- (g) the manufacture of paint containing lead or the dry rubbing down of surfaces treated with paint containing lead.

Provisions as to employment of persons in process of involving lead compounds

67.(1) No person shall be employed in any process in a factory involving the use of lead compounds if the process is such that dust or fumes from a lead compound is produced therein or the persons employed therein are liable to be

splashed with any lead compound in the course of their employment, unless the following provisions are complied with as respects all persons employed, namely,

- (a) Where dust or fume from a lead compound is produced in the process, provisions shall be made for drawing the dust or fume away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as near as possible to its point of origin;
- (b) the persons employed shall undergo such medical examinations to be paid for by the employer as may be prescribed at such intervals as may be prescribed and the prescribed record shall be kept with respect to their health;
- (c) no food, drink or tobacco shall be brought in or be consumed in any room in which the process is carried on and no person shall be allowed to remain in any such room during meal times;
- (d) suitable protective clothing and gear in a clean condition shall be provided by the occupier and worn by the persons employed;
- (e) such suitable lunchroom and washing, bathing and changing facilities as may be prescribed shall be provided for the use of persons employed; and
- (f) rooms in which persons are employed and all tools and apparatus used by them, shall be kept in a clean state.

(2) No person shall employ in any process that involves the use of lead compounds any person who has been suspended, after medical examination, from employment in such process on the ground that continuance therein would involve special danger to health.

(3) For the purposes of this section “lead compound” means any soluble compound of lead that the Minister by order, declares to be a lead compound or any mixture containing such compound but does not include an alloy containing lead.

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PART VII
SUPPLEMENTARY PROVISIONS

Importation and sale of materials and articles made with prohibited materials

68.(1) Where, by the regulations, the use of any material or process is prohibited, the Minister responsible for Trade may, absolutely or subject to exception, prohibit the importation into Barbados of the material or of any article in the manufacture of which such material or process was employed.

(2) Any person who sells or offers for sale or exposes for sale, or has in his possession for purposes of sale any article or material the importation of which is prohibited is guilty of an offence and, in addition to any punishment which may be imposed under this Act, such article or material shall be forfeited and destroyed or otherwise disposed of as the court thinks fit.

Power to take samples

69.(1) An inspector may, at any time after so informing the occupier of any factory or, if the occupier is not readily available, a foreman or any other responsible person therein, take for analysis a sufficient number of samples of any material in use or kept for use in a factory without payment of compensation to the owner thereof, if he suspects that there has been a contravention of the regulations or if in his opinion the material is likely, or may be proved on analysis to be likely, to cause injury to the persons employed.

(2) An occupier, a foreman or any other responsible person may, at the time when a sample is taken under this section and on providing the necessary utensils, require that the samples be divided into three parts, and that each part be marked, sealed or fastened in such manner as its nature permits and that

- (a) one part be delivered to the occupier, foreman or other responsible person;
- (b) one part be retained by the inspector for future comparison; and

(c) one part be submitted to an analyst,
and any analysis shall, if so required, be carried out by a department of the public service.

(3) A certificate purporting to be a certificate issued by the Government Analyst as to the result of an analysis of a sample under this section is, in any proceedings under this Act, *prima facie* 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.

(4) No person shall, except in so far as is necessary for the purposes of a prosecution for an offence under this Act, publish or disclose to any other person the results of an analysis made under this section, and any person who contravenes this subsection is guilty of an offence and is liable on summary conviction to a fine of \$500.

PART VIII

MEDICAL EXAMINATION OF YOUNG PERSONS

Certificate of fitness for employment of young persons

70.(1) Subject to section 72, no young person shall be admitted to employment in a factory for a period exceeding 2 weeks unless after a medical examination he has been found fit for the work he is employed to do.

(2) For the purposes of subsection (1), a medical examination shall be carried out by a factory doctor and upon completion of the examination the factory doctor shall, in such form as the Minister approves, submit to the occupier of the factory a certificate containing the result of the examination and deliver a copy thereof to the person examined.

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(3) Any fee payable in respect of a medical examination carried out pursuant to this section shall be paid by the person examined.

(4) Where a young person is certified as fit for employment in pursuance of this section the certification may be

- (a) subject to such conditions as may be specified in the certificate;
- (b) in respect of a specified job, or group of jobs or occupations that involve similar health risks and have been classified as a group by the Minister;

or

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- (c) subject to the condition that he be re-examined after a specified period.

(5) Where a young person is employed in continuous employment, he shall be medically examined at intervals of not more than 1 year or at such shorter intervals as the factory doctor carrying out the medical examination specifies.

(6) A certificate issued under this section shall be deemed to be issued by the Chief Labour Officer who may, before the date of its expiry, vary or revoke such certificate as the case may be, having regard to the findings of a factory doctor after examination by him of the young person in respect of whom the certificate was issued.

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School medical records

71. Where there is a school health service in existence, the Minister responsible for Education shall make arrangements for officers of his Ministry to furnish, on the application of a factory doctor in connection with his examination of a young person in pursuance of this section

- (a) a medical record of such young person; and
- (b) any other information in their possession relating to the medical history of such young person.

Procedure where young person's fitness not clearly determined

72.(1) A young person whose fitness is not clearly determined, may be employed if a factory doctor issues, after an examination by him of such young person,

- (a) a temporary medical certificate to be valid for a period of not more than 3 months, as to his fitness for the work he is being engaged to do; or
- (b) a medical certificate or permit in which is specified the conditions under which he may be employed.

(2) Where, after the expiration of the period specified in a temporary certificate issued under this section, a young person in respect of whom such certificate was issued desires to continue in the employment to which such certificate relates, he shall undergo another examination to determine his fitness to continue in that employment.

Occupier of factory to file medical certificates

73. An occupier of a factory shall file every medical certificate issued in respect of every young person employed in the factory and produce them for inspection on being required by the Chief Labour Officer to do so.

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Procedure where employment of young person is injurious to health

74.(1) Where an inspector is of the opinion that the employment of a young person in a factory or in a particular process or kind of work in a factory is injurious to his health or the health of other persons, he shall immediately report the matter to the Chief Labour Officer who may by notice in writing served on the occupier of the factory require that the employment of the young person in that factory or, as the case may be, in that process or kind of work, be discontinued within a specified time after service of the notice.

(2) An occupier of a factory on whom a notice is served under subsection (1) shall, notwithstanding that a medical certificate is in force in respect of the fitness of a young person whose employment has been required to be terminated by virtue of that subsection, comply with the requirements of the notice, unless a panel of 2 or more factory doctors appointed by the Chief Labour Officer have, after service of the notice, personally examined the young person and certified him as being fit for employment in the factory, process or kind of work, as the case may be.

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PART IX

SPECIAL APPLICATIONS AND EXTENSIONS OF ACT

Parts of buildings let off as separate factories - fire provisions

75.(1) Where a part of a building has been let as a separate factory, the owner of the building and not the occupier, is the person on whom duties are imposed, rights are conferred or any notice is to be served in pursuance of sections 33 to 41 or the regulations relating to fire protection and fire prevention under sections 33 to 36, 38 and 39, except in cases arising under section 35(1) in so far as it requires the means of escape to be kept free from obstruction caused by the use of the factory or under subsections (1) and (9) of section 38.

(2) For the purposes of this section, a part of a building let as a separate factory shall be deemed to include any other part of that building used for the purposes of the factory.

(3) The occupier of a factory occupying part of a building shall, if he proposes to make any material change in the factory after the Chief Fire Officer has granted his certificate as to means of escape in the case of fire under section 33, inform the owner of the building.

(4) For the purposes of this section, a warning in case of fire referred to in section 38(7) means a warning occurring anywhere in the building in which the factory is situated and the warning shall be clearly audible in every part of that building.

(5) An owner of a building who is prevented by the occupier of a factory in that building from carrying out any work, test or examination which it is his duty to carry out under this Act may bring a complaint before a magistrate alleging the facts and the magistrate may order the occupier to permit the owner to carry out the work, test or examination and an occupier who fails to comply with the order of the magistrate is liable to a fine of \$500 for each day during which he fails to comply with the order.

(6) The provisions of this Act respecting the requiring of certificates in respect of means of escape in case of fire, the registration of such certificate and the requirement of tests and examinations to be carried out in pursuance of section 39 apply in respect of a factory occupying part of a building, except that

- (a) a certificate issued pursuant to section 33 shall be issued to the owner of the building in which the factory is situate and a copy of such certificate sent to each occupier of a factory situate in a part of that building;
- (b) the general register mentioned in sections 33(6) and 39 shall be kept by the owner of the building instead of the occupier of a factory situate in part of the building and section 117(3) applies in respect of such register as if the owner were the occupier of the factory; and
- (c) a copy of a certificate of the Chief Fire Officer sent to an occupier of a factory occupying part of a building shall be treated as a certificate issued to such occupier for the purposes of section 33.

Part of buildings let off as separate factories - provisions other than fire provisions

76.(1) Where a part of a building is let as a separate factory, the provisions of this Act respecting

- (a) cleanliness and lighting;
- (b) transmission machinery, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines;
- (c) construction and maintenance of floors, steps, stairs, passages and gangways and the keeping of them free from obstruction and slippery substances;
- (d) steam boilers, steam receivers, steam containers and air receivers; and
- (e) the power of a magistrate to make orders in cases of danger or of unsatisfactory premises,

apply to any part of the building used in connection with the factory though not comprised therein; and the owner of the building, and not the occupier of the factory, is liable for any contravention of those provisions.

(2) The owner of a building referred to in this section is liable for the contravention of any of the provisions of this Act relating to

- (a) sanitary conveniences; and
- (b) hoists and lifts, whether in the factory or otherwise, in so far as they relate to matters within his control,

but the owner is not liable to keep sanitary conveniences in a clean state, except where they are used in common by employees of more than one factory occupying the building.

(3) For the purposes of subsection (1), lifting machines attached to the outside of a building and chains, ropes and lifting tackle used in connection therewith shall be treated as though they were in the building, but a lifting machine not used

for the purpose of the factory, and any chain, rope or lifting tackle used in connection with that machine, shall be disregarded.

- (4) Any liability arising
- (a) out of the use of chains, ropes and lifting tackle, cranes and other lifting machines, steam boilers, steam receivers, steam containers and air receivers, in respect of plant or machinery supplied by the occupier of a factory; or
 - (b) in relation to matters not within the control of the owner of the building in which a factory is situate,

attaches to the occupier of the factory.

(5) Liability in respect of matters not referred to in subsection (4) attaches to the owner of the building in which the factory is situate in so far as such matters are not outside his control.

(6) A reference in this Act to the occupier of a factory, in connection with the power of a magistrate to make orders respecting dangerous conditions in a factory shall, where that factory is situate in part of a building, be construed as a reference to the owner of the building if the owner is responsible for the condition in respect of which application for the order is made.

(7) A reference in this Act to the general register in relation to a factory that is situate in a part of a building shall, in respect of matters for which the owner of the building is responsible, be construed as a reference to the register required to be kept by him and section 117(3) applies in relation to that register as if the owner were the occupier of the factory.

Premises, other than factories in which steam boilers are used

77. The following provisions apply in respect of premises, not forming part of a factory, where a steam boiler is used and in which persons are employed,

as if the premises were a factory and the person having actual use or occupation of the premises were the occupier of a factory, namely,

- (a) the provisions respecting steam boilers, steam receivers and steam containers, including the exceptions thereto, except that the owner of a steam boiler, steam receiver or steam container shall be deemed to be the occupier where there is any contravention of these provisions in so far as they relate to matters within his control;
- (b) the provisions respecting the power of a magistrate to make orders where dangerous conditions exist or dangerous practices are engaged in;
- (c) the provisions respecting the making of regulations where such regulations relate to health, safety or welfare;
- (d) subject to the regulations and so far as is applicable, the provisions respecting general registers and the preservation of registers and records;
- (e) the provisions respecting the powers and duties of persons who are concerned with the enforcement of this Act; and
- (f) the provisions respecting offences, penalties and legal proceedings.

Premises, other than factories, in which air receivers are used

78. The following provisions apply in respect of premises, not forming part of a factory, where an air receiver is used and in which persons are employed, as if the premises were a factory and the person having actual use or occupation of the premises were the occupier of a factory, namely,

- (a) the provisions respecting air receivers except that the owner of the air receiver shall be deemed to be the occupier where there is any contravention of those provisions in so far as they relate to matters within his control;

- (b) the provisions respecting the power of a magistrate to make orders, where dangerous conditions exist or dangerous practices are engaged in;
- (c) the provisions respecting the making of regulations, where such regulations relate to health, safety and welfare;
- (d) subject to the regulations and so far as is applicable, the provisions respecting general registers and the preservation of registers and records;
- (e) the provisions respecting the powers and duties of persons who are concerned with the enforcement of this Act; and
- (f) the provisions that relate to offences, penalties and legal proceedings.

Written notice in respect of steam boilers and air receivers taken into use on premises not part of factory

79. Where a steam boiler or an air receiver is taken into use in any premises that do not form part of a factory the occupier of such premises shall, one month before the date upon which it is first taken into use or, if it is in use at 1st March, 1984, within one month of that date, forward to the Chief Labour Officer a written notice containing the following particulars, namely,

- (a) the name and address of the occupier of the premises;
- (b) the address and location of the premises;
- (c) the nature of the work carried on at the premises; and
- (d) in respect of each such steam boiler or air receiver,
 - (i) the type, description and distinctive number,
 - (ii) the country and year of its manufacture,
 - (iii) whether it is new or pre-used and if pre-used the name and address of the former owner;

- (iv) the date of the last thorough examination together with name of the person by whom the examination was made;
- (v) the maximum permissible working pressure in kilograms per square centimetre in the case of a steam boiler; and
- (vi) the safe working pressure in kilograms per square centimetre in the case of an air receiver.

Extension of sections 77 to 79

80. Sections 77 to 79 extend to any ship owned and worked by or on behalf of the Crown or owned or hired by any person resident in Barbados, and ordinarily used within the territorial sea of Barbados.

Institutions

81.(1) Where, in any premises forming part of an institution operated for charitable or reformatory purposes, any manual labour is required in or is incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning or adapting for sale, of articles not intended for the use of the institution, but the premises do not constitute a factory, the provisions of this Act, are, nevertheless to be construed as applying to those premises.

(2) Notwithstanding subsection (1), if the persons having control of an institution (in this section referred to as “the managers”) satisfy the Minister that the only persons working therein are inmates of the institution, maintained by the institution, or are persons engaged in the supervision of the work or the management of machinery, and that the work is carried on in good faith for the purposes of the support, education, training or reformation of persons engaged in it, the Minister may by order direct that, so long as the order is in force, this Act is to apply to the institution, subject to the following modifications, namely,

- (a) the medical officer of the institution, if there is such an officer, may, on the application of the managers be appointed factory doctor for the institution;

- (b) the provisions relating to the posting of an abstract and notices are not to apply;
 - (c) if the institution is carried on for reformatory purposes and the managers give notice thereof to the Chief Labour Officer, no person shall, without the consent of the managers or the next person having immediate charge of the institution, examine any inmate of the institution unless the manager or that next person is present; but the Minister may, on being satisfied that in that institution there has been a contravention of the provisions of the Act or of any statutory instrument made pursuant thereto, suspend in respect of that institution the operation of this paragraph to such extent as he considers necessary; and
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 - (d) the managers shall, not later than the 15th January in each year, send to the Minister a return specifying the names of persons in charge of the institution and particulars as to the number, age, sex and employment of the inmates and other persons employed in the institution.
- (3) Any person who fails to comply with paragraph (d) of subsection (2) is guilty of an offence and is liable on summary conviction to a fine of \$200.

Building operations and works of engineering construction

82.(1) Subject to the regulations, the provisions to which this section applies have effect in relation to

- (a) building operations and works of engineering construction undertaken by way of trade or business or for the purpose of any industrial or commercial undertaking; and
- (b) any line or siding used in connection with operations or works referred to in paragraph (a),

as if any place where such operations or works are carried on were a factory and any persons undertaking the operations were the occupier of a factory.

- (2) This section applies in respect of
- (a) the provisions relating to the interpretation and application of this Act;
 - (b) the provisions relating to sanitary conveniences;
 - (c) the provisions of Part III, subject to such modifications as the Minister may, by order, direct;
 - (d) the power of a magistrate to make orders in a case of the existence of dangerous conditions, or dangerous practices being engaged in;
 - (e) the provisions relating to the making of safety, health and welfare regulations;
 - (f) the provisions relating to certificates of fitness of young persons for employment and the payment of appointed factory doctors;
 - (g) the provisions relating to the abstract of the Act, notices, regulations, general registers, preservation of registers and records and the duties of persons employed;
 - (h) the provisions relating to the powers and duties of persons concerned with the enforcement of this Act; and
 - (i) the provisions respecting offences, penalties and legal proceedings.
- (3) Subsection (2) applies in respect of operations and works mentioned in subsection (1) whether or not such operations and works are undertaken on premises that fall within the provisions of this Act and notwithstanding the application of the special provisions relating to such operations and works.
- (4) No order made pursuant to this Act by a magistrate operates to interfere with the design of any works of engineering construction or with the adoption in the execution of those works of any method not inconsistent with the safety of those works or of the persons employed which is set forth in the specification or

in any signed plan issued, or written directions given, by the consulting engineer or the engineer in charge.

(5) The provisions of this Act requiring the keeping of special registers and the posting of copies, or as the case may be, abstracts of this Act or the regulations on premises shall be deemed to be complied with as respects building operations or works of engineering construction if

- (a) the register is kept at an office of the person undertaking the operations or works; and
- (b) copies, or as the case may be, the abstracts, of the Act or the regulations are kept posted in each office, yard or shop of such person at which persons employed by him on the operations or works attend, in a position where they can be easily read by those persons.

(6) Subject to subsection (7), any person who undertakes any building operations or works of engineering construction to which this section applies shall, not later than 7 days before the commencement of such operation of works, serve notice in writing on the Chief Labour Officer stating

- (a) the name and postal address of the person who undertakes such operations or works;
- (b) the place and nature of the operations or works that are being carried out;
- (c) whether mechanical power is being used and, if so, the nature of that power; and
- (d) any other particulars the Chief Labour Officer requires.

(7) Except the Chief Labour Officer otherwise directs, subsection (6) does not apply where

- (a) a person undertaking the operations or works has reasonable grounds for believing that the operations or works will be completed in a period not exceeding one week;

- (b) building operations or works of engineering construction are already in progress at the place where a person proposes to undertake other building operations or works of engineering; or
- (c) the building operations or works are of a simple nature and not likely to cause injury to workers,

and where the building operations or works are of a simple nature without any likelihood of injury to workers the period specified in paragraph (a) may be reduced to a period of not exceeding one week.

Docks, wharves, quays and warehouses

83.(1) The provisions contained in paragraphs (a) to (i) apply to every dock, wharf, or quay (including any warehouse belonging to the owners, trustees or conservators of the dock, wharf or quay, and any line or aiding used in connection therewith and for every purpose thereof), and to every other warehouse (not forming part of a factory) in or for 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) the provisions that relate to the interpretation and application of this Act;
- (b) the provisions of Part III, subject to any modifications that the Minister may by order direct, except that liability for contravention of the provisions relating to steam boilers attach to the owner and not to the person deemed to be the occupier;
- (c) the provisions that relate to the making of regulations for the prevention of fires and fire fighting;
- (d) the provisions that relate to the prevention of accidents and to the power of a magistrate to make orders as to dangerous conditions and practices;
- (e) the provisions that relate to the making of regulations respecting welfare, safety and health;

- (f) subject to the regulations, the provisions that relate to premises where part of a building is used as a separate factory;
 - (g) subject to the regulations, the provisions that relate to
 - (i) the posting of the abstract of the Act or regulations and notices;
 - (ii) special regulations, general registers, preservation of registers and records, and
 - (iii) the duties of persons employed;
 - (h) the provisions that relate to the powers and duties of persons who are concerned with the enforcement of this Act; and
 - (i) the provisions that relate to offences, penalties and legal proceedings.
- (2) The provisions
- (a) referred to in
 - (i) paragraphs (b) and (d) of subsection (1), except machinery or plant on board a ship, such machinery or plant being the property of the owner of the ship,
 - (ii) sub-paragraph (e), except in case of welfare, and
 - (iii) sub-paragraphs (c), (g), (h) and (i), and
 - (b) relating to the fitness of young persons for employment (other than as members of the crew of a ship), the appointment of factory doctors and the payment of fees to such doctors,

apply to the process of loading, unloading and bunkering of any ship in any dock, harbour or canal and to all machinery or plant used in any such process as if such process were carried on in a factory and the machinery or plant were in a factory and the persons carrying on the process were the occupier of a factory.

- (3) For the purposes of this section “plant” includes any gangway or ladder used by any person employed to load, unload or bunker a ship.

- (4) The provisions of this Act that relate to
- (a) transmission and other machinery;
 - (b) unfenced machinery;
 - (c) construction and maintenance of fencing;
 - (d) construction and sale of new machinery;
 - (e) cleaning of machinery by young persons;
 - (f) training and supervision of persons working at dangerous machines;
 - (g) hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines;
 - (h) construction and maintenance of floors, passages and stairs; and
 - (i) the power of a magistrate to make orders relating to dangerous factories,

apply to any warehouse referred to in subsection (1) as if the warehouse were a factory and the person having actual use or occupation thereof were the occupier of a factory.

Ships

84.(1) Subject to subsection (3), the provisions specified in subsection (2) apply in respect of work carried out in a harbour or wet dock in connection with

- (a) the constructing, reconstructing, repairing, refitting, painting, finishing or breaking up of a ship;
- (b) the scaling, scurfing or cleaning of boilers, including combustion chambers and smoke boxes, in a ship;
- (c) the cleaning of
 - (i) oil-fuel tanks or bilges in a ship,

- (ii) any tank in a ship last used for oil of any description carried as cargo, or
- (iii) any tank or hold used for any substance carried as cargo declared, by order, by the Minister to be of dangerous or injurious nature, and

any such ship shall be deemed to be a factory and a person undertaking such work shall be deemed to be the occupier of a factory.

- (2) The provisions referred to in subsection (1) are
 - (a) the provisions relating to the interpretation and general application of this Act;
 - (b) the provisions authorising the making of regulations relating to fire prevention and fire fighting;
 - (c) the provisions relating to the power of a magistrate to make orders in respect of dangerous conditions and dangerous practices;
 - (d) the provisions relating to the making of regulations respecting welfare, safety and health;
 - (e) subject to the regulations, the provisions relating to the issuing of certificates of fitness of young persons for employment and the appointment of factory doctors;
 - (f) so far as applicable, the provisions relating to general registers, the preservation of registers, the keeping of records and the duties of employees;
 - (g) the provisions relating to the functions of inspectors; and
 - (h) the provisions relating to offences, penalties and legal proceedings.
- (3) Nothing in this Act applies to any work mentioned in this section that is
 - (a) done by the master or crew of a ship; or
 - (b) done on board a ship during a trial run.

Employment in lead processes in places other than factories

85.(1) The provisions to which this section apply operate in respect of employment in places, other than factories, in which processes are carried on in connection with lead manufacture or in connection with the use of lead compounds as if the place were a factory and the employer were the occupier of the factory.

(2) This section applies in respect of

- (a) the provisions relating to the employment of persons in certain processes connected with lead manufacture and in processes involving the use of lead compounds;
- (b) the provisions requiring notification to be sent to the Chief Labour Officer of lead poisoning contracted or occurring in factories;
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- (c) the provisions relating to the powers and duties of persons concerned with the enforcement of this Act; and
- (d) the provisions relating to offences, penalties and legal proceedings.

PART X**NOTICES, RETURNS, RECORDS AND DUTIES OF PERSONS EMPLOYED****Notice of occupation of factory and use of mechanical power**

86.(1) Subject to subsection (4), any person who desires to occupy or use any premises as a factory shall, not less than month before he does so, serve on the Chief Labour Officer a notice containing

- (a) the name of the occupier or the title of the firm;
- (b) the name and address of the owner of the premises;

- (c) the postal address of the factory including the exact location of the factory;
- (d) the number of persons likely to be employed;
- (e) the nature of the work being carried on;
- (f) whether mechanical power is to be used and, if so, the nature of that power; and
- (g) any additional particulars that the Chief Labour Officer requires.
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(2) Subject to this section, if the premises are being occupied for the first time as a factory or if extensions are to be made to the factory the Chief Labour Officer may, in addition to information required by subsection (1), require the submission to him of any of the following information

- (a) a flow chart of the manufacturing process; and
- (b) plans in duplicate showing
 - (i) the site of the factory and its immediate surroundings, and
 - (ii) the plan elevations and necessary cross sections of the various buildings showing details of lighting, ventilation, means of escape in case of fire, sanitary and welfare facilities, position of plant and machinery and aisles and passageways.

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(3) Subject to subsection (4), not less than 1 month before the date on which mechanical power is first used in a factory the occupier shall serve notice in writing on the Chief Labour Officer stating the nature of the mechanical power.

(4) A person may, with the permission of the Chief Labour Officer, occupy or use any premises as a factory or use mechanical power for the first time in a factory, less than 1 month after the notice required by this section has been served; and a person may also occupy a factory less than 1 month after or before such notice has been served if he takes over those premises from another person

without changing the nature of the work and the notice is served as soon as practicable and in any case within 1 month of his taking over.

(5) Any person who occupies, or uses any premises as, a factory in contravention of this section is guilty of an offence and is liable on summary conviction to a fine of \$200 and in the case of a continuing offence to a further fine of \$50 for each day on which the offence continues after a conviction was first obtained.

(6) The powers of inspectors under section 95 shall be deemed to include power to enter by day and inspect and examine premises that are stated in a notice served on the Chief Labour Officer under this section as being intended to be used as a factory, and in relation to any such premises the reference to the occupier of a factory in subsection (3) shall be construed as a reference to the person giving the notice.

(7) Where a notice is served on the Chief Labour Officer pursuant to this section and the person serving the notice does not, within 3 months after the date of the service thereof, receive any communication from the Chief Labour Officer, permission for him to operate a factory shall be deemed to have been granted.

(8) Where the Chief Labour Officer refuses permission after a notice has been served on him under this section, the person aggrieved by the refusal may, within 30 days after such refusal, apply to the High Court to have the matter reviewed.

[1986-6]

Register of factories

87. The Chief Labour Officer shall keep a register of factories in which he shall enter such particulars in relation to every factory of which notice is required to be given in accordance with this Act, as may be prescribed.

Posting of abstracts and notices

88.(1) Subject to subsection (2), there shall be kept posted at the principal entrances of every factory where employees enter

- (a) the prescribed abstract of this Act;
- (b) a notice of the address of the office of the Chief Labour Officer;
- (c) a notice of the name and address of the factory doctor appointed for that factory;
- (d) every notice and document required by this Act to be posted in the factory; and
- (e) a notice showing the names of the members of the safety committee for that factory.

(2) The Chief Labour Officer may direct that any document mentioned in subsection (1) shall be posted in other parts of the factory, either in addition to, or in substitution for, the principal entrances.

(3) All documents required to be posted by this section shall be posted in such characters and in such positions as to permit them to be conveniently read by the persons employed in the factory, and, where a form is prescribed, they shall be posted in that form.

(4) Any person who pulls down, damages or defaces any abstract, notice, regulation or other document posted pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine of \$50.

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Provisions as to special regulations

89.(1) Printed copies of all special regulations for the time being in force in respect of a factory or the prescribed abstract of such regulations shall be kept

posted in the factory in such manner and in such positions as to permit it to be conveniently read by the persons employed in the factory.

(2) A copy of every regulation or abstract referred to in subsection (1) shall be given by the occupier of a factory to any person affected thereby upon his application therefor.

General registers

90.(1) There shall be kept by the occupier in every factory or in such place outside every factory as the Chief Labour Officer approves, a register in the prescribed form to be known as the general register, and there shall be entered in or attached to that register

- (a) the prescribed particulars respecting every accident and case of occupational disease occurring in the factory;
- (b) all reports and particulars required by any other provision of this Act to be entered into or attached to the general register; and
- (c) any other matter that may be prescribed.

(2) There shall be attached to the general register the certificate of the Chief Fire Officer relating to means of escape in case of fire.

Preservation of registers and records

91. The general register and every other register or record kept in pursuance of this Act shall be preserved for a period of at least 3 years after the date of the last entry therein or for such longer period as may be prescribed in respect of any class or description of register or record; and shall be kept available for inspection by an inspector or by a factory doctor or by members of a safety committee.

Periodical return of persons employed

92.(1) The occupier of every factory shall, at intervals of not less than 12 months on or before such days as the Minister requires, send to the Chief

Labour Officer a correct return specifying, with respect to such days, or such periods as the Minister directs

- (a) the number of persons employed in the factory;
- (b) the hours of employment of young persons employed;
- (c) the ages, sex and occupation of all the persons employed;
- (d) the products and product lines manufactured in the factory; and
- (e) such other matters that the Minister requires,

giving in each case such particulars as may be prescribed.

(2) The occupier of any place to which any provision of this Act applies shall, on being required by the Minister, make a return to the Chief Labour Officer containing the specifications set forth in subsection (1).

(3) The Minister may, for the purpose of facilitating the making of returns under this section, make arrangements for the consolidation of any return with other returns that any department of the public service requires from occupiers.

Duties of employees

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

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

PART XI
ADMINISTRATION

Administration generally

- 94.(1)** The Chief Labour Officer may, in writing
- (a) authorise officers of his department to be inspectors for the purposes of this Act; and
 - (b) delegate any of his functions under this Act, to officers so authorised.
- (2) Notwithstanding subsection (1), where the circumstances so require, the Chief Labour Officer with the approval of the Minister, may
- (a) authorise in writing a person other than an officer referred to in that subsection to be an inspector; and
 - (b) delegate any of their functions under this Act to a person so authorised.
- (3) No occupier of a factory or any person who is
- (a) directly or indirectly interested in such factory or in any process or business carried on therein or in a patent connected therewith; or
 - (b) employed in or about a factory,
- shall act as an inspector and if authorised so to act shall declare his interest in the factory.
- (4) Every inspector shall be furnished with a certificate of his appointment and, upon his visiting a factory or place to which this Act applies, shall, if required, produce such certificate to the occupier or other person holding a responsible position of management at such factory or place and to any person he interviews.

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Powers of inspectors

95. An inspector may, for the purpose of carrying out his duties under this Act

- (a) enter, inspect and examine at all reasonable times, by day or night, a factory or any part thereof, where he has reasonable cause to believe that any person is employed therein;
- (b) enter, inspect and examine by day
 - (i) any place that he has reasonable cause to believe to be a factory, or
 - (ii) any part of any building of which a factory forms part and in which he has reasonable cause to believe that explosive or highly inflammable materials are stored or used;
- (c) request and authorise a member of the Police Force to enter a factory with him if he has reasonable cause to believe that there will be serious obstruction in the execution of his duty;
- (d) require the production of any register, certificate, notice or other document which the owner or occupier of a factory is by this Act or the regulations required to keep or exhibit therein and inspect, examine or make copies thereof;
- (e) examine, whether alone or in the presence of such other person as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or whom he has reasonable cause to believe to be or have been within the preceding 2 months employed in a factory and require such person to make and sign a declaration of the truth of the matters respecting which he is so examined; so, however, that no person shall be required to answer any question or make any statement tending to incriminate himself;

- (f) carry out any examination and inquiry necessary to ascertain whether the provisions of the Act and any enactment for the time being in force relating to public health are complied with in so far as they apply to a factory or to any person employed in a factory;
- (g) require any person he finds in a factory to give information to the best of his knowledge as to who is the occupier of the factory;
- (h) if he is a medical practitioner, carry out such medical examinations as may be necessary for the purpose of performing his duties under this Act; and
- (i) exercise any other powers that are necessary for carrying this Act into effect.

Powers of entry of officers of Fire Service

96. The Chief Fire Officer is assigned the administration of sections 33, 39 and 41 and he or an officer of the Fire Service authorised by him in writing under section 33 may, for the purpose of doing anything connected with his function under this Act, exercise the powers of entry conferred on an inspector under section 95.

Designation of factory doctor

97.(1) Subject to the general directions of the Minister, the Chief Labour Officer may designate a sufficient number of medical practitioners to be factory doctors for the purposes of this Act.

- (2) No medical practitioner who is
 - (a) the occupier of a factory; or
 - (b) directly or indirectly interested in such factory or in
 - (i) any process or business carried on in a factory, or
 - (ii) any patent connected with a factory,

shall act as a factory doctor in respect of a factory and if appointed to act he shall declare his interest in the factory but nothing in this subsection, except in such cases and for such purposes as may be prescribed, prevents a medical practitioner from being so appointed by reason only of the fact that he is employed by the occupier of the factory in connection with the medical supervision of persons employed in the factory.

- (3) A factory doctor may
- (a) at all reasonable times inspect the general register of that factory; and
 - (b) make any special inquiry and examination of employees as the Minister directs.

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[1986-6]

Medical officer of health to act where no factory doctor is appointed

98. Where no factory doctor is appointed for a factory, a medical officer of health may act in that behalf.

Factory doctors to report to Minister each year

99. Every factory doctor appointed for a factory or a medical officer of health acting pursuant to section 98, as the case may be, shall at such time of each year as may be prescribed report to the Chief Labour Officer respecting such examinations and other duties performed by him under this Act.

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Fees for factory doctors

100.(1) Any fees payable under this Act to a factory doctor in respect of the examination of young persons employed in a factory or of any examination or medical supervision of persons employed in a factory shall be paid by the occupier of the factory.

(2) Fees payable under this section shall be of such amount as the Minister by order prescribes.

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Information respecting factories to be confidential

101.(1) No inspector or other person shall, except for the purposes of civil or criminal proceedings, disclose to another person any information respecting any factory or any process carried on in a factory.

(2) Notwithstanding subsection (1), an inspector or other person referred to in that subsection may disclose information respecting any process carried on in a factory,

(a) in the case of a person injured while engaged in employment at a factory, to

(i) an attorney-at-law representing the person,

(ii) the injured person or any relative or friend authorised by the injured person,

(iii) any trade union representing workers in the factory, and

(iv) the personal representative of the deceased in any case where an injury results in death, and

(b) to an attorney-at-law representing the occupier of the factory.

(3) No person shall disturb, alter or remove any machinery, equipment or substance that is likely to be of assistance in the investigation of an accident in a factory unless authorised to do so by the Chief Labour Officer.

(4) Disclosure of a report under subsection (2) must be in the form of a copy of the report and on payment to the Chief Labour Officer of such fee as the Minister may, by order, prescribe.

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- (5) Any person who contravenes subsection (1) or (3) is guilty of an offence and liable on summary conviction to a fine of \$250 or imprisonment for 6 months or both.

PART XII
SAFETY ORGANISATION

Safety consultations

- 102.**(1) Every employer in a factory shall
- (a) consult with his employees or their representatives for the purpose of developing measures to promote safety and health at such factory; and
 - (b) make arrangements for the participation of the employees in the improvements and development of such measures.
- (2) Consultation for the purposes of subsection (1) shall be effected as follows
- (a) in factories where there are 50 or more persons employed, through meetings of safety committees consisting of representatives appointed by the employer and representatives appointed by the employees; and
 - (b) in factories where there are less than 50 persons employed, and it is not practical to have a safety committee, through one or more safety delegates appointed by the employees.
- (3) Where there is a health and safety committee
- (a) the health and safety committee must comprise an equal number of employers and employees' representatives;
 - (b) the employees' representatives shall be appointed through their trade union, if the employees are represented by a trade union;
 - (c) the recommendations of the health and safety committee shall, if practicable, be implemented;

- (d) the employees' representatives shall be granted access to information relating to all workplace hazards and to all reports relating to the workplace environment;
- (e) the employees' representatives may conduct tests and take samples of hazardous materials; and
- (f) no employee shall be dismissed or disciplined in any manner by reason only of his requesting an inspection of his workplace by an inspector.

PART XIII

REGULATIONS AND RULES

Special regulations relating to safety

103. The Minister may, in respect of any class or description of factory, make regulations

- (a) prescribing
 - (i) the measures to be taken to reduce the risk of the outbreak of fire or the spreading of smoke, and
 - (ii) the requirements to be complied with in internal construction and the materials to be used in such construction;
- (b) prescribing the devices that may be used for fighting fire and the methods for the testing and examination of any device for fighting fire and for the recording of
 - (i) particulars of any test or examination carried out pursuant to any regulation made under this paragraph,
 - (ii) any defect found after any such test and examination, and
 - (iii) any action taken to remedy such defect;

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- (c) requiring devices to be provided for notifying the Fire Service of an outbreak of fire and the instruction of employees in the use of such devices;
 - (d) prescribing those cases in which persons other than the occupier may be liable for contravention of regulations made under paragraphs (a) to (c);
 - (e) providing, in relation to any class or description of appliance, for the substitution of a period exceeding that mentioned in section 39;
 - (f) prescribing the test of examination of means of giving warning to be carried out in case of fire.
 - (g) providing that any application for certificate of the Chief Fire Officer under section 33 shall be accompanied by a specified plan of the building;
 - (h) applying the provisions respecting
 - (i) the means of giving of warning in a case of fire, and
 - (ii) the means of escape in a case of fire to that class or description of factory;
 - (i) prescribing
 - (i) the means of escape in case of fire that are to be provided therein, and
 - (ii) the steps that are to be taken in ensuring that, as far as possible, all employees are familiar with the means of escape in case of fire, with their use and with routine to be followed in case of fire; and
 - (j) requiring an occupier to make specific arrangements for supervision with regard to the safety of employees, investigation into the circumstances and cases of accidents and any other matters related thereto where the number or nature of accidents occurring in such factory, in his opinion, indicates the need therefor.

Special regulations relating to health

104.(1) The Minister may, in respect of any class or description of factory, make regulations

- (a) determining what amounts to sufficient and suitable sanitary convenience and prescribing the standards of construction for such conveniences;
- (b) modifying the number of cubic metres that, under section 47, must be allowed for every person employed in any workroom;
- (c) prescribing a standard of sufficient and suitable lighting for such factory or any part thereof, or for any process;
- (d) prescribing a standard of reasonable temperature and prohibiting the use of any method of maintaining a reasonable temperature which, in his opinion, is likely to be injurious to employees;
- (e) directing the provision, and placement in particular places, of thermometers;
- (f) for the protection of employees against hazards caused by exposure to noise;
- (g) respecting arrangements for the treatment and disposal of effluents arising out of any manufacturing processes;
- (h) for prevention of glare and the formation of shadows in respect of lighting;
- (i) prescribing a standard of adequate ventilation for any factory or part thereof;
- (j) prescribing for the purposes of section 60(1), those processes that give rise to dust;

- (k) prescribing in respect of any class of persons or in respect of persons employed in any process the maximum weights to be lifted, carried or moved by employees;
 - (l) prescribing the maximum allowable concentrations of specific dusts, fumes and other hazardous substances within the factory or working environment, and
 - (m) prescribing such matters as are by this Act authorised or required to be prescribed.
- (2) Subject to subsection (3) the Minister may make special regulations requiring such reasonable arrangements to be made for the medical supervision (not including medical treatment other than first-aid treatment and medical treatment of a preventive character) of persons or any class of persons employed at any factory or description of factory where he is satisfied that
- (a) cases of illness have occurred which he believes to be connected with the nature of the work carried on at that factory;
 - (b) there might be a risk of injury to the health of persons employed in particular processes at a factory by reason of
 - (i) changes in the processes,
 - (ii) changes in substances used in the processes, or
 - (iii) the introduction of new processes or new substances;
 - (c) young persons are employed or are about to be employed in work likely to cause injury to their health; or
 - (d) there might be a risk to the health of employees caused by
 - (i) any substance or material brought to the factory to be used or handled therein, or
 - (ii) any change in conditions of works or other conditions in the factory.

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(3) Powers conferred on the Minister by subsection (2) may, in relation to a particular factory for a limited period, be exercised by order.

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(4) An order referred to in subsection (3)

(a) must contain the date on which it expires; and

(b) must not be made to have effect for a period exceeding 6 months.

(5) The Minister may, upon the expiration of an order, made under subsection (3), make a new order extending the period contained in the original order subject to the conditions specified in subsection (4); but the occupier of the factory may, by notice in writing to the Minister object to the extension of the order and the original order ceases to have effect as from 1 month after the service of the notice, without prejudice to the making of any special regulations in relation to the factory.

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Special regulations relating to welfare

105. The Minister may, in respect of any class or description of factory, make regulations

(a) prescribing either generally or as respects any class or description of factory or as respects the persons employed in any process, a standard of adequate washing facilities;

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(b) prescribing the standards required to be attained by a person after training in first-aid treatment;

(c) requiring reasonable steps to be taken, either in addition to, in substitution for or by way of extension or variation of any provision of the Act relating to welfare;

(d) respecting any of the following

(i) the supply of drinking water,

- (ii) washing facilities and the supply and use of seats in workrooms,
 - (iii) adequate and suitable accommodation for clothing,
 - (iv) facilities for sitting,
 - (v) first aid and first-aid arrangements,
 - (vi) arrangements for the preparing, heating and taking of meals,
 - (vii) the supply of protective clothing and equipment,
 - (viii) adequate furniture in rest rooms,
 - (ix) arrangements for the supervision of employees, and
 - (x) any other matter affecting the welfare of employees or any class of employees;
- (e) respecting arrangements to be made to ensure the immediate treatment of injuries occurring in any factory; and
- (f) generally for the proper carrying into effect of the provisions of this Act.

General regulations

106.(1) The Minister may in respect of any class or description of factory, make regulations

- (a) for the prevention of injury to employees employed in connection with any manufacture, machinery, plant, equipment, appliance, process or description of labour where such injury is likely to occur;
- (b) prohibiting the employment, or modifying or limiting the hours of employment, of all persons or of any class of persons connected with any manufacture, machinery, plant, process or description of labour;
- (c) prohibiting, limiting or controlling the use of any material or process;
- (d) modifying or extending any provisions of this Act or the regulations relating to safety;

- (e) imposing duties on owners, occupiers, employees and other persons;
 - (f) respecting the prevention of danger to employees arising out of employment connected with the manufacture, use or dry rubbing down of paint containing lead;
 - (g) respecting the inspection of factories and machinery;
 - (h) applying any of the provisions of section 4(2) to any machinery or plant used elsewhere than in premises referred to in subsections (1) and (2) of that section in or on which premises persons are regularly employed in processes or operations and for the purposes set forth in subsection (1) of that section as if the machinery or plant were in a factory and the employer of any person employed in connection therewith were the occupier of a factory; and
 - (i) prescribing any act or thing that is desirable for the proper administration of this Act or is by this Act required or authorised to be prescribed.
- (2) Notwithstanding subsection (1) and sections 103 to 106, the Minister may make regulations
- (a) prescribing the manner in which and the place where examinations for the purpose of certifying fitness of young persons for employment shall be conducted;
 - (b) respecting the facilities to be afforded by occupiers of factories for the purpose of examinations of young persons in pursuance of this Act, including facilities for the factory doctor appointed in respect of the factory to inspect any process in which a young person is to be employed;
 - (c) regulating the duties of factory doctors, appointed by virtue of this Act;
 - (d) prescribing the employments to be treated as a group for for the purposes of paragraph (b) of section 70(4);

- (e) for the doing of anything that the Minister considers desirable for the purpose of giving effect to any of the provisions contained in Part VIII;
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- (f) modifying or extending any provision of this Act or the regulations relating to health; and
- (g) prescribing the manner in which lead paint must be treated before it is permitted to be used.
[1986-6]

PART XIV

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

Contravention by occupiers and employees and companies

107.(1) In the event of any contravention in, in connection with or in relation to, a factory of the provisions of this Act, or of any regulation or order made under this Act, the occupier or, (if the contravention is one in respect of which the owner is by or under this Act responsible), the owner, of the factory is, subject to this Act, guilty of an offence.

- (2) In the event of
 - (a) the contravention by an employee in respect of the duties imposed on employees; or
 - (b) a contravention by any person of any regulation or order made under this Act which expressly imposes any duty upon him,

that employee or person is guilty of an offence; except that no offence is committed by the occupier or the owner, as the case may be, by reason only of the contravention of the provision imposing the duty unless it is proved that he failed to take all reasonable steps to prevent the contravention but this subsection does not affect any liability of an occupier or owner in respect of the same facts by virtue of some provision other than any referred to in this subsection.

(3) An occupier of a factory shall be deemed to have contravened this Act if he avails himself of an exception allowed under this Act and fails to comply with any of the conditions attached to that exception.

(4) Where persons are employed in a factory otherwise than in accordance with the provisions of this Act or of any regulation or order made pursuant to this Act, there shall be deemed to be a separate contravention in respect of each person so employed.

(5) Where an offence under this Act has been committed by a company and has been proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of any director, manager, secretary or other officer of the company, both such officer and the company are guilty of the offence committed.

Means of entry and obstruction

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

(2) Any person who

- (a) wilfully and without reasonable cause delays, hinders or interferes with an inspector or a member of the Fire Service in the exercise of his powers or functions, as the case may be under this Act;
- (b) fails to produce any register, certificate or document that he is required to produce in pursuance of this Act or the regulations;
- (c) wilfully withholds any information as to who is the occupier of a factory;
- (d) conceals or attempts to conceal any person from an inspector or prevents or attempts to prevent any person from appearing before or being examined by an inspector;

- (e) fails to comply with a requisition of an inspector in pursuance of this Act;
- (f) assaults, resists, obstructs or intimidates an inspector or a member of the Fire Service in the execution of his duty under this Act or the regulations;
- (g) uses any indecent, abusive or insulting language to an inspector or a member of the Fire Service in the execution of his duty;
- (h) by the offer of any gratuity, bribe, promise or other inducement prevents or attempts to prevent an inspector or a member of the Fire Service from carrying out his duty under this Act; or
- (i) contravenes any provision of this Act, the regulations or any order made under this Act,

is guilty of an offence.

General penalty

109.(1) Subject to subsection (2), any person who

- (a) contravenes any provision of this Act for which no specific penalty is provided; or
- (b) contravenes any of the regulations or any order made pursuant to this Act,

is guilty of an offence and liable on summary conviction, in the case of an owner or occupier, to a fine of \$500 and if the offence continues after such conviction the person convicted is liable to a further fine of \$100 for each day in respect of which the offence continues and in the case of an employee to a fine of \$100.

(2) If the contravention is the act or omission of the owner or the occupier as the case may be, and causes death or injury that results in permanent injury such owner or occupier is liable on summary conviction to a fine of \$5 000.

Power of court to order contravention to be remedied

110. Where an occupier or owner of a factory has been convicted of an offence under this Act, the court may, in addition to or instead of imposing a fine, order him within such time as the court determines, to take such steps as the court specifies for remedying the matters in respect of which the contravention occurred, and may, on application, extend the time stated in the order, and where an extension is allowed, the occupier is not liable in respect of any continuation of the contravention during the extended time, but if, after the expiration of the time as originally specified or as extended the order is not complied with, the occupier or owner, as the case may be, is liable to a fine of \$100 for each day on which the non-compliance continues after the date on which the conviction was first obtained.

Forgery of certificates, false entries and false declarations

111. Any person who

- (a) forges or counterfeits any certificate required by, under or for the purposes of, this Act or any regulations or orders made pursuant to this Act;
- (b) gives or signs any such certificate knowing it to be false in any material particular;
- (c) utters or makes use of any such certificate knowing it to be so forged, counterfeited or to be false;
- (d) knowingly utters or makes use of as applying to any person any such certificate that does not so apply;
- (e) personates any person named in any such certificate;
- (f) falsely pretends to be an inspector;

- (g) wilfully connives at any forging, counterfeiting, giving, signing, uttering, making use, personating or pretending specified in paragraphs (a) to (f);
- (h) wilfully makes a false entry in any register, notice, certificates, or document required by, under or for the purposes of this Act or any regulation or order made pursuant to this Act to be kept or served or sent;
- (i) wilfully makes or signs a false declaration required by, under or for the purposes of this Act or any regulation or order made pursuant to this Act; or
- (j) knowingly makes use of any false entry or declaration,

is guilty of an offence and is, without prejudice to any other penalty the court imposes, liable on summary conviction to a fine of \$500 or imprisonment for a term of 3 months.

Penalty on persons actually committing offence for which occupier is liable

112. Where an act or default for which an occupier or owner is liable under this Act is in fact the act or default of some agent, servant, employee or other person, that agent, servant, employee or other person is liable and punishable 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 actual offender

113.(1) An occupier or owner of a factory who is charged with an offence under this Act, is entitled, upon information duly laid by him before a magistrate and on giving to the prosecution not less than 3 days' notice in writing of his intention, to have any other person who he charges as the actual offender 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 or owner of the factory proves to the satisfaction of the court

- (a) that he has used all due diligence to enforce the execution of the provisions of this Act and of any relevant regulations or orders made pursuant to this Act; and
- (b) that the other person had committed the offence in question without his consent, connivance or wilful default,

that other person may be convicted and the occupier or owner acquitted and the person so convicted may at the discretion of the court be also liable to pay the costs of the proceedings.

- (2) The prosecution may, in a case to which subsection (1) relates,
 - (a) cross-examine the occupier or owner, if he gives evidence, and any witness called by him; and
 - (b) call rebutting evidence.
- (3) Where an inspector, upon his discovery of the commission of an offence, is satisfied as to the person by whom the offence was committed and that
 - (a) 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
 - (b) the offence 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

114. Where, under this Act any person is substituted for the occupier or owner with respect to any provision of this Act, any order, summons, notice or proceeding which for the purpose of these provisions is by or under this Act

required or authorised to be served on or taken in relation to the occupier or owner, is hereby required or authorised, as the case may be, to be served on or taken in relation to that person.

Owner of machine liable in certain cases instead of occupier

115. Where, in a factory the owner or hirer of a machine or implement moved by mechanical power is some person other than the occupier of the factory such owner or hirer shall be deemed to be the occupier of the factory in 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.

Provisions as to proceedings in prosecutions under this Act

116. In any proceedings under this Act it is sufficient to allege in the information 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; and the burden of proving that the premises do not constitute a factory, or that the occupier specified in the information is not the occupier of the factory lies on the person alleging such fact.

Limitation of time within which proceedings may be instituted

117.(1) Except as otherwise expressly provided in subsection (2), no information in respect of an offence shall be laid, and no proceedings for the recovery of any penalty shall be instituted, under this Act, after the expiration of a period of 12 months commencing on the date on which the offence was committed or the subject-matter of the proceedings arose.

- (2) Where, with respect to or in consequence of any accident in a factory,
- (a) a report is made by a court appointed to hold a formal investigation under any Act in operation in Barbados or a coroner's inquest is held; and

(b) it appears from the report, or from proceedings at the inquest, that any of the provisions of this Act or any regulations or orders made pursuant to this Act were not complied with, at or before the time of the accident, proceedings may be commenced at any time within a period of 12 months after the making of the report or the conclusion of the inquest.

(3) Where any offence is committed under this Act by reason of a failure to make an examination, enter a report or do any act or other thing at or within a time specified by this Act or any regulations or orders made pursuant to this Act, the offence shall be deemed to continue until the examination is made or the report entered or other thing done, as the case may be.

Evidence as to employment in factory

118.(1) Any person found in a factory at any time during which work is going on or machinery is in motion, except during the intervals for meals or rest, shall, until the contrary is proved, be deemed for the purpose of this Act to be employed in that factory.

(2) Subsection (1) does not apply to a factory in which the only persons employed are members of the same family dwelling there.

(3) Where, by this Act, an order or the regulations, an entry is required to be made in the general register or in any other register or record, any entry made by the occupier of a factory or on his behalf is admissible in evidence as *prima facie* proof of the facts therein stated, and the fact that an entry so required to be made has not been made is *prima facie* evidence that the requirement has not been complied with.

Prosecutions

119. All prosecutions under this Act shall be by information in the name of the Chief Labour Officer.

[1986-6]

Power of Judge to apportion expenses

120.(1) 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 make those premises

- (a) comply with the provisions of this Act or of any regulations or orders made pursuant to this Act; or
- (b) conform with any standard or requirement imposed by or under this Act,

and the owner or occupier, as the case may be, alleges that the whole or part of the expenses of the alterations ought to be borne by the occupier or owner, the owner or occupier may apply to a Judge who, after hearing the parties and any witness called by them, may make such order concerning the expenses, including their apportionment, as he considers just and equitable in the circumstances of the case, due regard being had to the terms of any contract between the parties; or, in the alternative, the Judge may at the request of the owner or occupier determine the lease.

(2) A person who is dissatisfied with the decision of the Judge made after the hearing of an application under subsection (1) has the same right of appeal as if the application were an action or matter within the original jurisdiction of the Judge.

Power of court to modify agreements

121. Where, 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, such owner or occupier is prevented from carrying out any structural or other alterations to the premises, such alterations being necessary

- (a) to enable him to comply with the provisions of this Act or of any regulations or order made pursuant to this Act; or

- (b) to conform with any standard or requirement imposed by or under this Act,

the owner or occupier may make an application to the court and the court may, after hearing the parties and any witnesses called by them, make such order setting aside or modifying the terms of the agreements as it considers just and equitable having due regard to the circumstances of the case.

PART XV GENERAL

Advisers

122.(1) The Minister responsible for Labour may appoint persons to advise him in connection with his functions under this Act and such persons are entitled to such travelling and other allowances, including compensation for loss of remunerative time as the Minister determines.

(2) The Chief Labour Officer may, in writing, authorise any person who has been appointed as an adviser to the Minister under subsection (1) to enter a factory and make enquiries in respect of any matter in respect of which advice is desirable.

[1986-6]

(3) Section 108 applies in respect of a person appointed under this section as it does in respect of an inspector or a member of the Fire Service.

[1986-6]

No charge for facilities and conveniences

123. No fee or other charge shall be required from any person employed in respect of any arrangement, facility, equipment or appliances provided in accordance with this Act.

No exemption from civil or criminal liability

124.(1) Nothing in this Act exempts any person from any civil or criminal liability to which he is subject under any other enactment or at common law.

(2) Notwithstanding subsection (1), no person shall be punished both under this Act or under another enactment or at common law in respect of the same acts or omissions.

Expenses

125. All expenses incurred in the administration of this Act shall be defrayed out of moneys voted for the purpose by Parliament.

FIRST SCHEDULE*(s. 7(3)(b))**PROCESSES TO WHICH SECTION 7(3) RELATES*

1. All processes in the manufacture of
 - (a) sugar;
 - (b) paper or paper-board;
 - (c) plastics;
 - (d) flour;
 - (e) provender and compound food stuffs for animal feeding;
 - (f) sodium carbonate by the ammonia soda or solvay process;
 - (g) caustic soda by the ammonia soda or solvay process, or by continuous causticising;
 - (h) sulphur dioxide;
 - (i) industrial gases.
2. All processes in the milling of cereals, seeds or nuts.
3. All processes in the extraction of oil or other similar products from cereals or seeds.
4. Any manufacturing process in which a mixture of nitric and sulphuric acids is employed and where risks of fire or explosion would arise if the transmission machinery were stopped.
5. The process of enamelling wire including re-winding after enamelling.

6. Any other process which the Minister by order specifies.

SECOND SCHEDULE*(s.14(2))**MACHINES TO WHICH SECTION 14 APPLIES*

1. Brick and tile presses.
2. Machines used for opening or teasing in upholstery or bedding works.
3. Carding machines in use in the wool textile trades.
4. Comer staying machines.
5. Dough brakes.
6. Dough mixers.
7. Worm pressure extruding machines.
8. Gill boxes in use in the wool textile trades.
9. The following machines;
 - (a) hydro-extractors;
 - (b) calenders;
 - (c) washing machines;
 - (d) garment presses.
10. Meat mincing machines.
11. Milling machines.
12. Pie and tart making machines.

13. Power presses, including hydraulic and pneumatic presses.
14. Loose knife punching machines.
15. Wire stitching machines.
16. Semi-automatic wood turning lathes.
17. Guillotines, cutting equipment and drilling machines.

THIRD SCHEDULE*(s.15(1)(f))**CHAINS AND LIFTING TACKLE EXEMPTED FROM SECTION 15(1)(f)*

- (a)* chains made of malleable cast iron;
- (b)* plate link chains;
- (c)* chains, rings, hooks, shackles and swivels made of steel or of any non-ferrous metal;
- (d)* pitched chains working on sprocket or pocketed wheels;
- (e)* rings, hooks, shackles or swivels permanently attached to pitched chains, pulley blocks or weighing machines;
- (f)* hooks and swivels having screw-threaded parts or ball-bearings or other case hardened parts;
- (g)* socket shackles secured to wire ropes by white metal capping;
- (h)* bordeaux connections;
- (i)* any chain or lifting tackle that has been subjected to heat treatment known as “normalising” instead of annealing.