

THE FACTORIES ACT

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THE FACTORIES ACT

[1st August, 1943.]

Cap. 124.
Laws
68 of 1956,
71 of 1958,
Acts
5 of 1968,
8 of 2009.

PART I. *Preliminary*

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

Short title.

2.—(1) In this Act—

Interpreta-
tion.

“the Board” means the Factories Appeal Board constituted in accordance with the provisions of section 5;

68/1956
S. 2(1)(a).

“factory” means any premises in which, or within the close or curtilage or precincts of which—

68/1956
S. 2(1)(b).

- (a) acetylene, steam, water, wind, electric, internal combustion or other mechanical power is used; or
- (b) ten or more persons are employed in manual labour,

in any process for or incidental to any of the following purposes, namely—

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

being premises in which, or within the close or curtilage or precincts of which, the work is carried on by way of trade or for purposes of gain:

And (whether or not they are factories by reason of the foregoing definition) the expression “factory” also includes the following premises, that is to say—

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- (i) any dock, dry dock or yard (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, re-fitted, finished or broken up;
- (ii) any premises in which mechanical power is used or in which ten or more persons are employed in manual labour in connection with the business of sorting any articles, carried on as a preliminary to the work in any factory or incidentally to the purposes of any factory;
- (iii) any premises in which mechanical power is used or in which ten or more persons are employed in manual labour in connection with the business of washing or filling bottles or containers or packing articles, carried on incidentally to the purpose of any factory;
- (iv) any premises in which mechanical power is used or in which ten or more persons are employed in manual labour in the business of hooking, plaiting, lapping, making-up or packing of yarn or cloth which is there carried on;
- (v) any laundry or dry cleaning establishment in which mechanical power is used or in which ten or more persons are employed in manual labour and which is carried on as ancillary to another business;
- (vi) any premises in which the construction, reconstruction or repair of locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a

transport undertaking or other industrial or commercial undertaking, not being any premises used for the purpose of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out;

- (vii) any premises in which mechanical power is used or in which ten or more persons are employed in manual labour in connection with printing by letter-press, lithography, photogravure, or other similar process, or bookbinding, carried on by way of trade or for purposes of gain or incidentally to another business so carried on;
- (viii) any premises in which mechanical power is used or in which ten or more persons are employed in manual labour in the business of making or mending nets which is carried on incidentally to the fishing industry;
- (ix) any premises in which mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain;
- (x) any premises in which the production of cinematograph films is carried on by way of trade or for purposes of gain, so, however, that the employment at any such premises of theatrical performers, and of attendants on such theatrical performers shall not be deemed to be employment in a factory;
- (xi) any premises in which articles are made or prepared incidentally to the carrying on of

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building operations or works of engineering construction, not being premises in which such operations or works are being carried on;

(xii) any premises used for the storage of gas in a gasholder having a storage capacity of not less than five thousand cubic feet;

(xiii) any dairy or other premises in which mechanical power is used or in which ten or more persons are employed in manual labour in connection with the processing and storage of milk, carried on by way of trade or for purposes of gain or as ancillary to any business so carried on;

(xiv) any premises in which mechanical power is used for the purpose of lubricating motor vehicles;

(xv) any premises in which mechanical power is used or in which ten or more persons are employed in manual labour in connection with the pumping, processing, or storage of water for distribution;

71/1958
S. 2.

(xvi) any premises used for undertakings in connection with the generation of electric current by way of trade or for purposes of gain;

71/1958
S. 2.

(xvii) any premises where cold storage installations are operated as a separate business and not merely ancillary to another business;

68/1956
S. 2 (1) (b).

“existing factory” means any factory which was in operation on the 20th day of December, 1956;

“new factory” means any factory—

68/1956
S. 2 (1) (e).

- (a) which first commences to operate some time after the 20th December, 1956; or
- (b) which (having previously been in operation) has ceased to operate before the 20th December, 1956, and which recommences to operate at some time after such date;

“Inspector” means any person appointed in accordance with the provisions of section 3;

“machinery” includes—

- (a) stationary or portable boilers in a factory;
- (b) steam or other engines in a factory;
- (c) all apparatus or appliances for generating, developing, receiving or transforming, or for measuring or testing the volume, voltage, pressure or frequency of, or for distributing or applying, any mechanical, electric or natural power to any industrial or manufacturing process in a factory;
- (d) furnaces and fuel or storage tanks situated within, opening into or attached to the structure of, or directly connected with, any factory;
- (e) locomotives when operated within the curtilage of any factory; and
- (f) vats, tanks, cooling or drying devices used for the storage of, or otherwise in connection with, the product of any mechanical process, and situated within or attached to the premises within which such process is carried on.

(2) Any premises which would be a factory by virtue of the fact that mechanical power is used therein but which would not otherwise be a factory and in which the mechanical power used consists only of electric motors with the total consumption of electric current not exceeding two

68/1956
S. 2 (1) (e).

ampères with an electro-motive force not exceeding one hundred and ten volts and with a total power not exceeding one-quarter of one horsepower, shall not be deemed, for the purposes of this Act, to be a factory.

68/1956
S. 2 (1) (c).

(3) A part of a factory may, with the approval in writing of the Chief Factory Inspector, be taken to be a separate factory and two or more factories may, with like approval, be taken to be a single factory.

68/1956
S. 2 (1) (c).

(4) A quarry as defined in the Quarries Control Act, or a mine within the meaning of the Mining Act shall not be deemed, for the purposes of this Act, to be a factory.

(5) No premises in or adjacent to or belonging to a quarry or mine being premises in which the only process carried on is a process ancillary to the getting, dressing or preparation for sale of minerals shall be deemed to be a factory.

68/1956
S. 2 (1) (c).

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

68/1956
S. 2 (1) (c).

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

68/1956
S. 2 (1) (c).

(8) Any premises belonging to or in the occupation of any municipal, parochial or other authority shall not be deemed not to be a factory, by reason only that the work carried on thereat is not carried on by way of trade or for purposes of gain.

3.—(1) The Governor-General may, from time to time, appoint a Chief Factory Inspector for the purposes of this Act, and from the date of the coming into operation of this Act and until the Governor-General shall otherwise appoint, the person holding the appointment of Permanent Secretary to the Ministry of Labour for the time being, shall be deemed to be the Chief Factory Inspector.

Appointment of Chief Factory Inspector and Inspectors.

(2) The Chief Factory Inspector, may from time to time appoint Inspectors to assist in giving effect to the provisions of this Act.

4.—(1) The supervision of all factories, and of all machinery in the Island shall be exercised by the Chief Factory Inspector and (subject to his directions), by Inspectors appointed as provided for by this Act.

Supervision of factories and machinery.

(2) The Chief Factory Inspector may from time to time delegate the exercise of all or any of his powers and duties under this Act to such Inspectors as he may think fit.

PART II. *Factories Appeal Board*

5.—(1) There is hereby established a Factories Appeal Board (hereinafter referred to as "the Board") for the purpose of hearing and determining appeals from the decision of the Chief Factory Inspector in accordance with the provisions of this Act.

Constitution of Factories Appeal Board.

(2) The Minister shall appoint five persons to be members of the Board, and shall appoint one of such persons to be the Chairman of the Board.

(3) Two at least of the members of the Board (hereinafter referred to as "unofficial members") shall be persons who are not directly or indirectly employed in the Public Service of the Island.

(4) The Minister may fill any vacancy on the Board caused by the death, resignation, illness, absence from the Island or inability to act of any member thereof, and may at any time revoke the appointment of any member of the Board:

Provided always that any vacancy on the Board caused by the death, resignation, illness, absence from the Island, inability to act or revocation of the appointment of any unofficial member, shall be filled within thirty days of the occurrence thereof by the appointment of another unofficial member.

(5) Notwithstanding any temporary vacancy or vacancies, the Board shall be deemed to be fully constituted for the purposes of this Act.

(6) Three members shall form a quorum for the transaction of business, and may do anything required to be done by the Board:

Provided that the Board shall not determine any appeal in accordance with the provisions of this Act, unless at least one unofficial member of the Board be present at the determination of such appeal.

(7) The Board may, from time to time with the approval of the Minister, make rules for the transaction of its business, and in particular for determining the procedure to be followed upon the hearing of any appeal by the Board and the times at which, and the manner in which, any such appeal shall be heard and determined.

PART III. *Registration of Factories*

Factories to
be regis-
tered.

6. Every existing factory, and every new factory shall be registered as provided for by this Act.

Register of
factories to
be kept.

7. The Chief Factory Inspector shall keep a register of factories, and shall cause to be entered therein from time

to time, in respect of every factory registered in accordance with the provisions of this Act, the particulars specified in this Part.

8.—(1) Not later than thirty days after the 20th December, 1956, every person who is the owner, manager, or person having the control of any existing factory shall apply to the Chief Factory Inspector to have such factory registered as an existing factory:

Registration of existing factories.
68/1956 S. 3 (a).

Provided that where a certificate of registration was issued under any provision having the force of law prior to the said 20th day of December, 1956, and had not expired before that date, such certificate shall remain valid for the period stated therein or until cancelled under the provisions of this Act, and during the period of the validity of such certificate the factory in respect of which the certificate was issued shall be deemed to be registered under this Act.

(2) Every application under subsection (1) shall be made in writing, and shall set out the following particulars—

- (i) the name of the owner of the factory to which the application relates;
- (ii) the address and location of the factory;
- (iii) the nature and the object of the process of manufacture carried on at the factory;
- (iv) the nature of the mechanical power, if any, used in the factory for the purpose of carrying on such process;
- (v) the number of employees employed in the factory at the date of the application or (if such number is not the number normally employed when the factory is engaged in the industrial or manufacturing process carried on therein) the number of

68/1956 S. 3 (b).

employees normally employed when the factory is so engaged.

(3) Upon receipt of an application under this section the Chief Factory Inspector shall cause the factory, to which the application relates, to be inspected. If the Chief Factory Inspector, upon inspection, is satisfied either—

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

he may refuse registration until such steps have been taken as are, in his opinion, necessary to remove the danger complained of. If he is so satisfied, then upon payment of the prescribed fees he shall cause the factory to be registered and a certificate of registration in the prescribed form to be issued to the occupier thereof.

(4) Any person who is aggrieved by the refusal of the Chief Factory Inspector forthwith to grant a certificate of registration in accordance with the provisions of this section, may, within fourteen days of such refusal, appeal to the Board as provided for by any rules made under the provisions of subsection (7) of section 5.

(5) On the hearing of any such appeal, the Board, unless they are satisfied that the factory does not comply with the requirements of the Chief Factory Inspector, shall direct the Chief Factory Inspector to register the factory, and the Chief Factory Inspector shall register the factory, and on any such appeal the Board may order the costs of

the appeal to be paid by the appellant or the Chief Factory Inspector.

9.—(1) Notwithstanding anything to the contrary in any law, where application is made or notice is given to a Building Authority by any person for the approval (in the manner hereinafter appearing) of any plan for the construction of—

Approval of plans of buildings to be used as factories.
68/1966
S. 4.
71/1958
S. 3 (a).

(a) any building to be used as a factory; or

(b) any building appurtenant to a factory,

such application or notice shall not be considered by the Building Authority unless it is accompanied by the approval of the Chief Factory Inspector of such plan.

(2) For the purposes of this section—

68/1956
S. 4.

“plan” includes particulars, drawings and other documents;

“Building Authority” means—

(a) in relation to the parishes of Kingston and St. Andrew, the Building Authority defined in section 2 of the Kingston and St. Andrew Building Act;

(b) in relation to any other parish, the Parish Council of such parish.

(3) Where pursuant to the provisions of subsection (1) an application is made to the Chief Factory Inspector for his approval of any plan there shall be submitted with the application not less than three copies of such plan together with the following information—

71/1958
S. 3 (b).

(a) the location of the premises on which the new building is to be erected;

(b) the name and postal address of the owner, manager or other person who will be in control thereof;

(c) the nature of the manufacturing or other processes which will be carried out therein;

(d) a list and description of machinery to be installed therein;

- (e) the nature of mechanical power to be used (if any);
- (f) the maximum number of persons to be employed therein.

71/1958
S. 3 (b).

(4) Within thirty days of the receipt of any application as aforesaid the Chief Factory Inspector shall notify the applicant in writing either that he has approved such plan, or of his refusal to approve such plan unless and until the applicant has fulfilled such requirements as may be specified by him :

Provided that the Chief Factory Inspector may in any case refuse unconditionally to approve such plan upon specifying the grounds of his refusal.

71/1958
S. 3 (b).

(5) In any case where the Chief Factory Inspector fails within thirty days of the receipt of any application as aforesaid either to grant or to refuse (whether conditionally or unconditionally) such approval he shall be deemed to have refused such approval unconditionally; and the applicant may, within thirty days thereafter appeal to the Board as provided for by any rules made under the provisions of subsection (7) of section 5.

71/1958
S. 3 (b).

(6) Where the Chief Factory Inspector approves of any plan submitted under the provisions of subsection (1), he shall—

- (a) indicate such approval on all the copies thereof;
- and
- (b) return not less than two copies so approved to the applicant for submission to the appropriate Building Authority.

71/1958
S. 3 (b).

(7) Any person who is aggrieved by the refusal of the Chief Factory Inspector to approve any plan submitted in accordance with the provisions of subsection (3), or any condition attached by him to the grant of such application in accordance with the provisions of this section, may with-

in thirty days of the notice thereof, appeal to the Board as provided for by any rules made under the provisions of subsection (7) of section 5.

(8) On the hearing of any appeal under subsection (5) or (7) the Board may— 71/1958
S. 3 (b).

(a) give such directions as they may think fit to the Chief Factory Inspector who shall carry out the directions so given;

(b) order the costs of the appeal to be paid by the appellant or the Chief Factory Inspector.

10.—(1) Every person who intends to operate a new factory, shall, before commencing the operation thereof, apply in writing to the Chief Factory Inspector to have such factory registered as a new factory. Registration
of new
factories.
68/1956
S. 5.

(2) Upon receipt of an application under this section the Chief Factory Inspector shall cause the factory to which the application relates, to be inspected, and within thirty days of the receipt of such application the Chief Factory Inspector shall notify the applicant in writing either that the application for registration has been granted, subject to the payment of prescribed fees, or that it will not be granted unless and until the applicant has fulfilled such requirements as may be specified by him :

Provided that the Chief Factory Inspector may in any case refuse unconditionally to grant such application upon specifying the grounds of his refusal.

(3) Where an application for registration has been granted under this section, the Chief Factory Inspector shall, upon payment of the prescribed fees, issue to the occupier of the factory to which the application relates, a certificate in the prescribed form.

(4) In any case where the Chief Factory Inspector fails within thirty days of the receipt of any application for the registration of a factory either to grant or refuse (whether conditionally or unconditionally) such application, he shall be deemed to have refused the application unconditionally and the applicant may, within thirty days thereafter appeal to the Board as provided for by any rules made under the provisions of subsection (7) of section 5.

(5) Any person who is aggrieved by the refusal of the Chief Factory Inspector to grant an application for registration, or by any condition attached by him to the grant of such application, in accordance with the provisions of this section, may, within thirty days of the notice of such refusal appeal to the Board as provided for by any rules made under the provisions of subsection (7) of section 5.

(6) On the hearing of any appeal under subsection (4) or (5) the Board may—

- (a) give such directions as they may think fit to the Chief Factory Inspector who shall carry out the directions so given;
- (b) order the costs of the appeal to be paid by the appellant or the Chief Factory Inspector.

Registration
to be
renewed.
68/1956
S. 6 (a), (b).
71/1958
S. 4.

11.—(1) Every certificate of registration issued under this Act in respect of a factory shall, subject to the provisions of subsection (3), remain valid for a period of three years from the date of issue and shall then expire, and application shall be made to the Chief Factory Inspector for a renewal of registration for a further period of three years, from the date of expiry in accordance with the provisions of this Part relating to an original application for registration.

(2) The Chief Factory Inspector may in any case refuse to renew a registration certificate, but every such

refusal shall be subject to an appeal to the Board in like manner as in the case of a refusal of original registration.

(3) In any case where the Chief Factory Inspector is satisfied as respects any factory registered under this Act or deemed to be so registered— 68/1956
S. 6(c).

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

he may cancel the certificate of registration in respect of such factory:

Provided that—

- (i) any person who is aggrieved by such cancellation of the certificate of registration may within fourteen days thereof, appeal to the Board as provided for by any rules made under the provisions of subsection (7) of section 5; and
- (ii) on the hearing of any such appeal, the Board may—
 - (a) give such directions as they think fit to the Chief Factory Inspector who shall carry out the directions so given;
 - (b) order the costs of the appeal to be paid by the appellant or the Chief Factory Inspector.

PART IV. *Regulations*

Regulations.

5/1968
S. 3(1)(a).
8/2009
S. 2.

12.—(1) The Minister may from time to time make regulations generally for giving effect to the purposes of this Act, and for the purposes of ensuring the safety, health and welfare of persons who are employed in any factory or in connection with machinery, and in particular, and without prejudice to the generality of the foregoing provisions, any such regulations may provide for—

- (i) the safe means of approach or access to, and exit from, any factory, or machinery;
- (ii) the fencing and covering of all dangerous places or machines;
- (iii) life-saving and first aid appliances;
- (iv) securing safety in connection with all operations carried on in a factory;
- (v) security safety in connection with the use of cranes, winches, pully-blocks and of all engines, machinery, mechanical gear and contrivances generally whatsoever;
- (vi) the periodic inspection, testing and classification, according to age, type or condition, of boilers, and for the issue and display of certificates in connection therewith, and for the regulating of the type of safety valves to be fixed to any boiler and the maximum pressure at which boilers of any age, type, class, or condition may be operated;
- (vii) the duties and responsibilities assignable to any person generally, and in particular to employers, owners, and managers in charge of factories, in connection with any one or more of such regulations;
- (viii) the proper ventilation of any factory, having regard to the nature of the process carried on therein;

- (ix) the sanitation, including the provision of lavatory accommodation (having regard to the number of workers employed) at any factory;
- (x) the fees to be paid for the registration and renewal of registration of any factory or of any class of factory, and for the inspection or examination of any factory or class of factory and any machinery therein; 68/1956
S. 7.
- (xi) the forms and certificates to be used under the provisions of this Act; 5/1968
S. 3(1) (b).
- (xii) the provision and maintenance of appropriate facilities for the welfare of persons employed at any factory. 5/1968
S. 3(1) (c).

(2) Notwithstanding section 29 of the Interpretation Act, regulations made under subsection (1) may provide for the imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of five hundred thousand dollars or imprisonment for a term not exceeding six months or to both such fine and imprisonment. 8/2009
S. 2.

PART V. *Miscellaneous*

13.—(1) Any person who causes or permits any factory, other than a factory registered under this Act, to be operated commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars. Office of
operating
unregistered
factory.
8/2009
S. 3.

(2) Notwithstanding subsection (1), unless the Chief Factory Inspector otherwise directs, nothing in this section shall be construed as requiring a factory which is in operation to cease to operate during the period when an application for registration thereof is under consideration.

14.—(1) The owner, manager or other person having control of any factory registered in accordance with the provisions of this Act shall make an annual return on such date and in such form as may be specified by the Chief Factory Inspector, and in such return shall set forth any alterations in, or additions to, the Returns.

premises of the factory or the processes carried on therein, or any changes in the identity of the persons owning or having the management or control thereof, since the last registration of such factory or the making of the last preceding annual return in respect thereof.

(2) Within fourteen days of the receipt of any return pursuant to the provisions of subsection (1), the Chief Factory Inspector shall cause any necessary amendments to be made to the register and to the certificate of registration of the factory in respect of which such return is made.

8/2009
S. 4.

(3) An owner, manager or other person having control of any factory who contravenes subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars.

Factory
ceasing to
operate.

15. The Chief Factory Inspector at any time on being satisfied that any factory registered under this Act has ceased to be operated as a factory, may cause such factory to be removed from the register.

Certificate
and regula-
tions to be
exhibited.
68/1956
S. 9.
8/2009
S. 5(a).

16.—(1) The owner, manager, or other person having control of any factory registered in accordance with the provisions of this Act shall cause to be exhibited in a conspicuous place in the factory—

- (a) the proper certificate of registration issued or declared to be valid under this Act;
- (b) a copy of the Regulations in force under this Act.

8/2009
S. 5(b).

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars.

17. [*Repealed by Act 8 of 2009.*]

18. It shall be lawful for the Chief Factory Inspector or any Inspector by him appointed for the purposes of this Act—

Inspection and medical examinations.
68/1956
S. 11.

- (a) to enter upon the premises of, and to inspect, any factory, and any machinery therein, at all reasonable times by day and night, and take samples of the products of such factory or of materials used therein; and the occupier of such factory, his agents and servants shall furnish to the Chief Factory Inspector or any Inspector duly appointed, as the case may be, all such information (by the production of books and documents or otherwise) or render such other assistance as that officer may reasonably require for the exercise of his powers under this Act in relation to that factory;

- (b) if he is a duly qualified medical practitioner carry out such medical examinations as may be necessary for the purpose of his duties under this Act.

19. Any person who obstructs or impedes the Chief Factory Inspector, or an Inspector, in the execution of any of his duties under this Act commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

Penalty for obstruction.
68/1956
S. 12.
8/2009
S. 7.

20.—(1) Proceedings against any person for an offence against this Act or for the recovery of any penalties under this Act or any regulations made thereunder may be instituted by any Inspector appointed under section 3 who is authorized in that behalf by the special or general directions

Power of Inspector to conduct proceedings.
68/1956
S. 13.

of the Minister and any such officer may prosecute or conduct such proceedings.

(2) In any action or other legal proceedings brought against any such officer in respect of any act done in pursuance or execution or intended execution of this Act, the plaintiff shall not recover unless he alleges in his pleadings or in his particulars of claim and proves at the trial that such act was done either maliciously or without reasonable and probable cause.

Notifica-
tion of
accidents
and indus-
trial
diseases.
68/1956
S. 14.

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

- (a) causes loss of life to a person employed in that factory;
or
- (b) disables any such person for more than two days from earning full wages at the work at which he was employed,

the manager of the factory or person having control of the machinery in such factory shall forthwith report the occurrence of such accident to the Chief Factory Inspector and in connection therewith he shall furnish such particulars as the Chief Factory Inspector in any case from time to time may require.

(2) The manager of the factory or person having control of the machinery as aforesaid shall also from time to time in like manner report to the Chief Factory Inspector—

- (a) all accidental fires and explosions;
- (b) the collapse or failure of any building or structure;
- (c) accidents to machinery or plant which result in the cessation of work beyond the shift or day on which the accident occurs;

- (d) any industrial disease which may be prescribed by the Chief Factory Inspector,

which may occur in the factory.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding three hundred thousand dollars. 8/2009
S. 8(b).

(4) The Chief Factory Inspector may, where he considers it expedient so to do, hold or cause to be held a formal investigation in respect of any accident occurring or case of disease contracted or suspected to have been contracted in a factory and of its causes and circumstances, and with respect to such investigation the following provisions shall have effect—

(a) the person or persons holding the investigation (hereinafter in this section referred to as “the court”) shall do so in open court in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident or case of disease;

(b) the court shall have for the purpose of investigation all the powers of a Resident Magistrate to summon witnesses, call for the production of books and documents and to examine witnesses and the parties concerned on oath;

(c) any person summoned to attend or to produce books or documents under this section, and refusing or neglecting so to do, or refusing to answer any question put to him by or with the concurrence of the court shall be guilty of an offence against this Act and liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars and in default of payment to imprisonment for a term not exceeding six months: 8/2009
S. 8(c)(i).

8/2009
S. 8(c)(ii).

Provided that no person shall be bound to incriminate

himself, and every witness shall, in respect of any evidence given by him at such enquiry, be entitled to the same privileges to which he would be entitled if giving evidence before a court of justice;

(d) any witness attending at the request of or upon summons by the court holding such enquiry, shall subject to any order made by the court, be entitled to like expenses as if summoned to attend the Resident Magistrate's Court.

(5) As respects—

(a) building operations undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and any line or siding which is used in connection therewith and for the purposes thereof;

(b) works of engineering construction undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and any line or siding which is used in connection therewith and for the purposes thereof,

the provisions of subsections (1), (2) and (4) shall have effect as if—

(i) any place where such operations or works are carried on were a factory; and

(ii) the person undertaking any such operations or works to which this Act applies were the occupier of a factory,

and with such adaptations and modifications as may be necessary.

22. Any person who contravenes or fails to comply with any of the provisions of this Act, or of any regulations made thereunder, for which no penalty is expressly provided by this act commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding

71/1958
S. 5.

8/2009
S. 8(d).

Penalty.
68/1956
S. 15.
8/2009
S. 9.

five hundred thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

23. All expenses necessary for giving effect to the purposes and provisions of this Act (including any damages or costs recovered against an Inspector in any action or other legal proceedings under section 20) shall be defrayed out of the Consolidated Fund.

Expenses.
68/1956
S. 16.

24.—(1) Subject as hereinafter in this section provided the provisions of sections 12, 18, 19, 20, 21 and 22 shall apply to—

Applica-
tion of Act
to building
operations
and works
of engineer-
ing con-
struction.
68/1956
S. 17.
5/1968
S. 4 (a).

(a) building operations undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and to any line or siding which is used in connection therewith and for the purposes thereof;

(b) works of engineering construction undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and to any line or siding which is used in connection therewith and for the purposes thereof.

(2) The provisions of such sections as aforesaid in their application to building operations or works of engineering construction, as the case may be, shall have effect as if—

5/1968
S. 4 (b).

(a) any place where such operations or works are carried on were a factory; and

(b) the person undertaking any such operations or works to which this Act applies were the occupier of a factory,

and with such adaptations and modifications as may be necessary:

5/1968
S. 4(e).

Provided that none of the aforesaid sections shall operate so as to interfere with the design of any works of engineering construction or with the adoption in the execution of those works of any method prescribed in the specification or in any signed plans issued, or written directions given, by the consulting engineer or the engineer in charge, being a method which is not inconsistent with the safety of the works or of the persons employed.

(3) Any person undertaking any building operations or any works of engineering construction to which this Act applies shall, not later than seven days after the beginning thereof, serve on the Chief Factory Inspector a written notice stating the name and postal address of the person so undertaking the operations or works, the place and nature of the operations or works, whether any mechanical power is used, and if so, its nature, and such other particulars as may be required by the Chief Factory Inspector:

Provided that—

- (a) this subsection shall not apply to any operations or works aforesaid which the person undertaking them has reasonable grounds for believing will be completed in a period of less than six weeks, or at a cost not more than four thousand dollars except in such cases as the Chief Factory Inspector may direct; and
- (b) where a person undertakes any operations or works as aforesaid in a place where such operations or works are in progress, he shall not be required to give such notice if a notice was given in respect of the operations or works in progress.

25.—(1) The provisions of sections 12, 18, 19, 20, 21 and 22 shall apply to every dock, wharf or quay (including any warehouse belonging to the owner of any such dock, wharf or quay and any line or siding, not forming part of a railway, used in connection with and for the purposes of any such dock, wharf or quay) and every other warehouse (not forming part of a factory) in or for the purposes of which mechanical power is used.

Applica-
tion of
Act to
docks, etc.
5/1968
S. 5.

(2) The provisions of such sections as aforesaid in their application to any of the places referred to in subsection (1) shall have effect as if—

- (a) such place were a factory; and
- (b) the person having the actual use or occupation of such place or of any premises therein or forming part thereof were the occupier of a factory,

and with such adaptations and modifications as may be necessary.

(3) The provisions of such sections as aforesaid shall apply to the process of loading, unloading or fuelling of any ship in any dock or harbour and to all machinery or plant used in such process as if the process were carried on in a factory, and the machinery or plant were machinery or plant in a factory and the person who carries on such process were the occupier of a factory.

(4) In subsection (3) "plant" includes any gangway or ladder used by any person employed to load or unload or fuel a ship.

26.—(1) Where the Chief Factory Inspector is satisfied that any premises used—

- (a) for building operations or works of engineering construction as described in subsection (1) of section 24; or

Power to
require that
use of
premises for
certain
purposes be
discontinued.
5/1968
S. 5.

(b) as a dock, wharf, quay or warehouse referred to in subsection (1) of section 25,

are in such condition or are so constructed or placed that any process or work carried on therein cannot be so carried on with due regard to the safety, health and welfare of the persons employed therein, he may by notice in writing addressed to the owner, manager or other person having control of the premises, require that the use of the premises for the purpose of that process or work shall be discontinued until the Chief Factory Inspector is satisfied that the premises have been rendered fit for ensuring the safety, health and welfare of persons employed therein in connection with that process or work, and the person to whom such notice is addressed shall comply with the requirement specified therein.

(2) Any person may within fourteen days after the receipt of such notice appeal to the Board constituted under section 5, and on the hearing of any such appeal the Board may—

- (a) give such directions as it thinks fit to the Chief Factory Inspector who shall carry out the directions so given;
- (b) order that the person to whom the notice aforesaid is addressed shall comply with the requirement specified therein;
- (c) order the cost of the appeal to be paid by the appellant or the Chief Factory Inspector.

27. The Minister may, by order subject to affirmative resolution, increase any monetary penalty specified in this Act.

Minister
may by
order
increase
monetary
penalty.
8/2009
S. 10.