

CHAPTER 128

FACTORIES

AN ORDINANCE TO MAKE PROVISION FOR THE SAFETY AND WELFARE OF WORKERS IN FACTORIES.

Ordinances
Nos.45 of 1942,
22 of 1946,
Act
No. 54 of 1961
Law
No, 12 of 1976,
Acts
Nos.32 of 1984,
18 of 1998,
33 of 2000,

[1st January, 1950.]

1. (1) This Ordinance may cited as the Factories Ordinance.

Short title.

(2) Save as otherwise provided in subsection (3) of this section or in any other section of this Ordinance, the provisions of this Ordinance shall be in addition to and not in substitution for or diminution of the provisions of any other written law for the time being applicable to factories and to the employment of workers in factories in Sri Lanka.

(3) In any case of conflict or inconsistency between the provisions of this Ordinance or of any regulation made thereunder and any provision of any other written law made in pursuance of any power conferred upon any local authority, the provisions of this Ordinance or of such regulation shall prevail.

PART I

[§2, 12 of 1976.]

REGISTRATION OF FACTORIES AND APPROVAL OF FACTORY BUILDINGS

[§2,33 of 2000.]

2. (1) On and after the notified date, no person shall be the occupier of any factory, whether established before, on or after that date, unless such factory is registered in accordance with the provisions of this Ordinance and the regulations made hereunder:

Registration of factories and approval of buildings. &c.
[§2, Law 12 of 1976,]
[§3,33 of 2000.]

Provided that the occupation during the period of three months commencing from the notified date by the occupier of a

factory established before the notified date shall be deemed not to be a contravention of the preceding provisions of this section.

[§3,33 of 2000] (2) For the purpose of the registration required by this Ordinance the date of the establishment of a factory shall be the date on which any of the actual operations of the factory, or any process of work of any kind, other than the construction or renovation of buildings or the cleaning and preparation of the premises or the installation or repair of machinery or equipment, is commenced therein.

[§3,33 of 2000] (3) On and after the notified date no person shall commence-

- (a) the construction of a factory building on any site; or
- (b) the making of any extension to any factory building; or
- (c) the conversion of any other building into a factory building,

unless the plans for such construction, extension or conversion, as the case may be, has been approved by the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer.

[§3,33 of 2000] (4) Where approval under subsection (3) is not granted, the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer, as the case may be, shall inform in writing, the applicant the reasons therefor.

(5) In this section, "extension" includes the addition of any building, room or other structure, the alteration of any building for the purpose of dividing it into two or more portions, the roofing of any space between two or more walls, the re-erection of the whole or any part of any building destroyed or demolished for the purpose of re-erection, any change in the lay out of machinery, or any other alteration in the internal arrangements of the building which affects any provision of this Ordinance such as the temperature, lighting or ventilation.

Power to make regulations.
[§ 2, Law 12 of 1976
(§4, 33 of 2000.)

3. (1) The Minister may, by regulations, provide for all matters relating to the registration of factories, the approval of factory buildings and sites, the approval of extension to factory

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buildings and the approval of the conversion of other buildings into factory buildings, required by this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may by regulations-

- (a) require, for the purpose of considering applications for approval under section 2 (3), the submission of plans and specifications and prescribe the nature of such plans and specifications;
- (b) prescribe the form of application for registration; [§4,33 of 2000.]
- (c) prescribe the forms of certificates to be issued on registration; [§4,33 of 2000.]
- (d) provide for the matters to be complied with by an applicant before registration; and [§4,33 of 2000.]
- (e) prescribe the conditions subject to which registration may be made and the circumstances in which such registration may be cancelled. [§4,33 of 2000.]

(3) For the purpose of the registration of factories different regulations may be made under the preceding provisions of this section- [§4,33 of 2000.]

- (a) in respect of factories established before the notified date; and
- (b) in respect of factories established on or after the notified date.

4. (1) On and after the notified date no person shall commence the occupation of, or the use of any premises as, a factory unless he has, at least one month before the date on which it is intended to commence such occupation or use, served on the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer, a written notice, containing such particulars as may be prescribed. In the event of any change in the particulars so furnished, the occupier of such factory shall furnish to the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer

Notice of intention to commence the occupation of or the use of any premises as a factory and notice to be furnished in respect of a factory established before the date notified by the Minister under section 2. [§5,33 of 2000.]

a fresh written notice containing every such change of the particulars:

Provided however that such person may, after serving such notice commence such occupation or use on a date earlier than that specified in the notice, if he has obtained written permission to do so from the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer.

(2) The occupier of a factory established before the date notified by the Minister under section 2 and in use on such date, shall within a period of two months from such date, furnish to the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer a written notice in such form and containing such particulars as may be prescribed. In the event of any change in the particulars so furnished, the occupier of such factory shall furnish to the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer a fresh written notice *inter alia*, containing every such change of the particulars.

Notice of suspension and resumption of work in a factory. [§2, Law 12 of 1976.]

[§6,33 of 2000.]

5. When work in any factory has been suspended for a period exceeding six months, the person who, immediately before such work was suspended, was the occupier of that factory-

(a) shall serve on the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer a written notice, within fifteen days of the expiration of such period, specifying the date on which such work was suspended; and

(b) shall not resume such work therein unless he has, at least fifteen days before the date on which it is intended to resume such work, served on the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer a written notice stating the intention to resume, and the date on which it is intended to resume, such work.

Local authorities not to issue licence in respect of factories unless registered under this Ordinance. [§ 2, Law 12 of 1976.]

5A. No local authority shall issue a licence to carry on any trade or business which consists of or includes any process or operation referred to in sections 80, 81, 82, 84,86 or 126, unless the premises in which such trade or business is carried on is registered as a factory under this Ordinance.

PART II

HEALTH (GENERAL PROVISIONS)

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

Cleanliness.

- (a) accumulations of dirt and refuse shall be removed daily by a suitable method from the floors and benches of workrooms, and from the staircases and passages;
- (b) the floor of every workroom shall be cleaned at least once in every week by washing or, if it is effective and suitable, by sweeping or other method;
- (c) all such measures as may be prescribed by regulations shall be taken to keep in a clean and sanitary condition all inside walls and partitions and all ceilings or tops of rooms and all walls, sides and tops of passages and staircases:

Provided that-

- (i) except where the District Factory Inspecting Engineer for the district in any case otherwise requires, the provisions of any regulations made under paragraph (c) of this section shall not apply to any factory where mechanical power is not used and less than ten persons are employed; and

(ii) where it appears to the Registrar that in any class or description of factory or parts thereof any of the foregoing provisions of this section are not required for the purpose of keeping the factory in a clean state, or are by reason of special circumstances inappropriate or inadequate for such purpose, he may, if he thinks fit, by order direct that those provisions shall not apply to factories, or parts of factories, of that class or description or shall apply as varied by the order.

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

Overcrowd-
ing.

(2) Without prejudice to the generality of the foregoing provision, a factory shall be deemed to be so overcrowded as aforesaid, if the number of persons employed at a time in any workroom is such that the amount of cubic space allowed for each person employed in the room is less than four hundred cubic feet:

Provided that, if the Chief Factory Inspecting Engineer is satisfied that owing to the special conditions under which the work is carried on in any workroom in which explosive materials are manufactured or handled, the application of the provisions of this subsection to that workroom would be inappropriate or unnecessary, he may by certificate except the workroom from those provisions subject to any conditions specified in the certificate.

(3) As respects any room used as a workroom at the appointed date, the last foregoing subsection shall, for the period of five years after that date and, if before the expiration of that period effective and suitable mechanical ventilation has been provided in the room, for

a further period of five years, have effect as if for the reference therein to four hundred cubic feet there were substituted a reference to two hundred and fifty cubic feet:

Provided that this subsection shall cease to apply to the room—

- (a) if the room passes into the occupation of any person other than the person who was the occupier thereof at the appointed date, or his successor in the same business ; or
- (b) if, during the first of the said periods, the inspector for the district requires the provision of effective and suitable mechanical ventilation in the room and default is made in complying with the requirement; or
- (c) if, during the second of the said periods or in a case where it has been provided in pursuance of the Factory Inspecting Engineer's requirement during either of those periods, the effective and suitable mechanical ventilation provided in the room ceases to be maintained.

Regulations increasing amount of cubic space allowance for each person.

8. The Minister may make regulations, as respects any class or description of factory or parts thereof or any process, increasing the number of cubic feet which must under section 7 be allowed for every person employed in a workroom of a factory.

Calculation of amount of cubic space in rooms.

9. In calculating for the purposes of section 7 the amount of cubic space in any room, no space more than fourteen feet from the floor shall be taken into account, and where a room contains a gallery, the gallery shall be treated for the purposes of section 7 as if it were partitioned off from the remainder of the room and formed a separate room.

Notice of number of persons employed to be posted in each work-room.

10. Unless the District Factory Inspecting Engineer otherwise directs, there shall be posted in each workroom in a factory a notice specifying the number of persons, who, having regard to the provisions of section 7, may be employed in that room.

11. (1) Effective provision shall be made for securing and maintaining a reasonable temperature in each workroom, but no method shall be employed which 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. Temperature.

(2) The Minister may, by regulations, for factories or for any class or description of factory or parts thereof, prescribe a standard of reasonable temperature (which may vary the standard prescribed by the last foregoing subsection for sedentary work) and prohibit the use of any methods of maintaining a reasonable temperature which, in the opinion of the Minister, are likely to be injurious to the persons employed, and direct that thermometers shall be provided and maintained in such places and positions as may be specified.

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

(2) The Minister may, by regulations, prescribe a standard of adequate ventilation for factories or for any class or description of factory or parts thereof.

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

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

(3) Nothing in the foregoing provisions of this section or in any regulations made thereunder shall be construed as enabling directions to be prescribed or otherwise given as to whether any artificial lighting is to be produced by any particular illuminant.

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

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

Drainage of floors.

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

Sanitary conveniences.

15. (1) Sufficient and suitable sanitary conveniences for the persons employed in the factory shall be provided, maintained and kept clean, and effective provision shall be made for lighting the conveniences and, where persons of both sexes are or are intended to be employed such conveniences shall afford proper separate accommodation for persons of each sex.

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

Power to require medical supervision.

16. (1) Where it appears to the Commissioner that in any factory or class or description of factory—

- (a) cases of illness have occurred which he has reason to believe may be due to the nature of a process or other conditions of work ; or
- (b) by reason of changes in any process or in the substances used in any process, or by reason of the introduction of any new process or new substance for use in a process, there may be risk of injury to the health of persons employed in that process ; or

(c) young persons are or are about to be employed in work which may cause risk of injury to their health,

he may issue directions 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 the persons, or any class of the persons, employed at that factory or class or description of factory as may be specified in the directions.

(2) The Minister may make regulations as to the arrangements that shall be made in all factories or in any specified class of factories for the purposes of this section. [§ 3, Law 12 of 1976.]

PART III

SAFETY (GENERAL PROVISIONS)

17. (1) Every flywheel directly connected to any prime mover and every moving part of any prime mover, except such prime movers as are mentioned in subsection (3) of this section, shall be securely fenced whether the flywheel or prime mover is situated in an engine-house or not. Prime movers.

(2) The head and tail race of every water wheel and of every water turbine shall be securely fenced.

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

Transmission
machinery.

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

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

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

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

(5) Where the Commissioner is satisfied that owing to special circumstances the fulfilment of any of the requirements of the last three foregoing subsections is unnecessary or impracticable, he may by order direct that that requirement shall not apply in those circumstances.

Other
machinery.

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

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

(2) Where the Minister is satisfied that there is available and suitable for use in connection with machinery of any class any type or description of safety device which—

- (a) prevents the exposure of a dangerous part of machinery whilst in motion ; or
- (b) stops a machine forthwith in case of danger,

the Minister may make regulations directing that the type or description of device shall be provided for use in connection with such class of machinery as may be specified in the regulations :

Provided that, in any proceedings in respect of a contravention of this subsection, it shall be a sufficient defence to prove that a device at least equally effective was being used in connection with the machinery in respect of which the contravention occurred.

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

The Minister may, as respects any machine or any process in which a machine is used, make regulations requiring the fencing of materials or articles which are dangerous while in motion in the machine.

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

Provisions as to unfenced machinery.

- (a) no account shall be taken of any person carrying out, while the part of machinery is in motion, an examination thereof or any lubrication or adjustment shown by such examination to be immediately necessary, being an examination, lubrication or adjustment which it is necessary to carry out while the part of machinery is in motion ; and

- (b) in the case of any part of transmission machinery used in any such process as may be specified in regulations made by the Minister being a process where owing to the continuous nature thereof the stopping of that part would seriously interfere with the carrying on of the process, no account shall be taken of any person carrying out, by such methods and in such circumstances as may be specified in the regulations, any lubrication or any mounting or shipping of belts :

Provided that this section shall only apply where the examination, lubrication or other operation is carried out by such persons, being male persons who have attained the age of eighteen, as may be specified in regulations made by the Minister, and all such other conditions as may be so specified are complied with.

Construction and maintenance of fencing.

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

Construction and sale of new machinery.

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

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

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(2) Any person who imports, sells or lets on hire, or as agent of the importer, seller or hirer causes or procures to be imported, sold or let on hire, for use in a factory in Sri Lanka any machine intended to be driven by mechanical or electrical power which does not comply with the requirements of this section, shall be guilty of an offence and liable to a fine not exceeding fifty thousand mpees. [§ 4, Law 12 of 1976.]

(3) The Minister may by regulations extend the provisions of the last preceding subsection to machinery or plant which does not comply with such requirements of this Ordinance or of any regulation made thereunder as may be specified in the regulations, and any regulations made under this subsection may relate to machinery or plant in a specified process. [§2,18 of 1998.]

(4) Nothing in this section shall apply to any machine constructed before the appointed date, and regulations under this section shall not apply to any machinery or plant constructed before the making of the regulations.

23. (1) Every fixed vessel, structure, sump or pit of which the edge is less than three feet above the adjoining ground or platform shall, if it contains any scalding, corrosive or poisonous liquid, either be securely covered or be securely fenced to at least that height, or where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing or other means or prevent any person from falling into the vessel, structure, sump or pit. Vessels containing dangerous substances. [§ 5, Law 12 of 1976.]

(2) Where any fixed vessel, structure, sump or pit contains any scalding, corrosive or poisonous liquid but is not securely covered, no ladder, stair or gangway shall be placed above, or across it, which is not- [§ 5, Law 12 of 1976.]

(a) at least eighteen inches wide, and

(b) securely fenced on both sides to a height of at least three feet and securely fixed.

(3) Where any such vessels, structures, sumps, or pits as are mentioned in subsection (2) adjoin, and the space between, clear of any surrounding brick or other work is less than eighteen [§ 5, Law 12 of 1976.]

inches in width or is not securely fenced on both sides to a height of at least three feet, secure barriers shall be so placed as to prevent passage between them.

[§ 5, Law 12 of 1976.]

(4) For the purpose of this section, a ladder, stair or gangway shall be deemed to be not securely fenced unless it is provided either with sheet fencing or with an upper and a lower rail and with toe boards.

[§ 5, Law 12 of 1976.]

(5) (a) The Minister may by regulations extend any of the provisions of this section so as to make them applicable-

(i) to a vessel or structure which is not fixed; or

(ii) to a vessel, structure, sump or pit containing a substance which is not a liquid.

(b) In any regulation made under paragraph (ii) of this subsection, the expression "scalding" when used in relation to any substance which is not a liquid, shall mean likely to cause burns.

[§ 5, Law 12 of 1976.]

(6) The Chief Factory Inspecting Engineer may by order exempt from the requirements of this section any class of vessel, structure, sump or pit in the case of which he is satisfied that the requirements are unnecessary or inappropriate.

Self-acting machines.

24. (1) In any factory or part of a factory to which this subsection applies no traversing part of any self-acting machine and no material carried thereon shall,

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

Provided that nothing in this subsection shall prevent any portion of the traversing carriage of any self-acting spinning mule being allowed to run to a point twelve inches distant from any part of the head-stock of another such machine.

(2) The provisions of subsection (1) shall apply—

(a) to any factory or part of a factory reconstructed after the appointed date ; and

(b) to any extension of or addition to a factory made after the appointed date.

(3) All practicable steps shall be taken by instructions to the person in charge of the machine and otherwise to ensure that no person employed shall be in the space between any traversing part of a self-acting spinning mule and any fixed part of the machine towards which the traversing part moves on the inward run, except when the machine is stopped with the traversing part on the outward run.

(4) The Commissioner may exempt from the operation of this section any factory or class of factories in which precautions have been taken or safeguards adopted in accordance with the recommendations of the Chief Factory Inspecting Engineer.

Cleaning of
machinery by
women and
young
persons.
[§ 2, 22 of 1946.]

25. A woman or young person shall not clean any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, and shall not clean any part of any machine if the cleaning thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

26. (1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and—

Training and supervision of young persons working at dangerous machines.
[§ 3, 22 of 1946.]

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

(2) This section applies to such machines as may be declared by order of the Commissioner to be machines which in his opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

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

Hoists and lifts.

(2) Every hoist or lift shall be thoroughly examined by a competent person at least once in every period of twelve months, and a report of the result of every such examination in such form and containing such particulars as may be prescribed shall be signed by the person making the examination and shall within fourteen days be entered in or attached to the general register.

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

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

Provided that, in the case of a hoist or lift constructed or reconstructed before the appointed date which it is not reasonably practicable to fit with such devices

as aforesaid, it shall be sufficient if the gate is provided with such arrangements as will secure the aforesaid objects so far as is reasonably practicable, and in any event is kept closed and fastened except when the cage or platform is at rest at the landing.

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

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

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

- (a) efficient automatic devices shall be provided and maintained to prevent the cage or platform overrunning ;
- (b) every cage shall on each side from which access is afforded to a landing, be fitted with a gate, and in connection with every such gate efficient devices shall be provided to secure that, when persons or goods are in the cage, the cage cannot be raised or lowered unless the gate is closed, and will come to rest when the gate is opened :

Provided that, in the case of a hoist or lift constructed or reconstructed before the appointed date in connection with which it is not reasonably practicable to provide such devices as aforesaid, it shall be sufficient if such arrangements are provided as will secure ' the aforesaid objects so far as is reasonably practicable, and in any event the gate is kept closed and fastened except when the cage is at rest or empty ; and

(c) in the case of a hoist or lift constructed or reconstructed after the appointed date, where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the platform or cage, each rope or chain and its attachments being capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices shall be provided and maintained which will support the platform or cage with its maximum working load in the event of a breakage of the ropes or chains or any of their attachments.

(8) In the case of a continuous hoist or lift, subsections (3) to (7) inclusive of this section shall not apply and in the case of a hoist or lift not connected with mechanical power subsections (4) and (7) shall not apply.

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

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

(11) If it is shown to the satisfaction of the Commissioner that it would be unreasonable in the special circumstances of the case to enforce any requirement of this section in respect of any class or description of hoist, lift, hoistway, liftway, or teagle opening or similar doorway, he may by order direct that such requirement shall not apply as respects that class or description.

Chains, ropes
and lifting
tackle.

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

- (a) no chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect;
- (b) a table showing the safe working loads of every kind and size of chain, rope or lifting tackle in use, and, in the case of a multiple sling, the safe working load at different angles of the legs, shall be 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, so, however, that the foregoing provisions of this paragraph shall not apply in relation to any lifting tackle if the safe working load thereof or in the case of a multiple sling, the safe working load at different angles of the legs is plainly marked upon it;
- (c) no chain, rope or lifting tackle shall be used for any load exceeding the safe working load thereof as shown by the table aforesaid or marked upon it as aforesaid ;
- (d) all chains, ropes and lifting tackle in use shall be thoroughly examined by a competent person at least once in every period of six months or at such greater intervals as the Commissioner may by order prescribe ;
- (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 such a test and examination specifying the safe working load and signed by the person making the test and examination has been obtained and is kept available for inspection;

- (f) every chain and lifting tackle except a rope sling shall, unless of a class or description exempted by certificate of the Chief Factory Inspecting Engineer, upon the ground that it is made of such material or so constructed that it cannot be subjected to heat treatment without risk of damage or that it has been subjected to some form of heat treatment (other than annealing) approved by him, be annealed at least once in every fourteen months, or in the case of chains or slings of half-inch bar or smaller, or chains used in connexion with molten metal or molten slag, in every six months, so, however, that chains and lifting tackle not in regular use need be annealed only when necessary ;
- (g) a register containing such particulars as may be prescribed shall be kept with respect to all such chains, ropes or lifting tackle, except fibre rope slings.

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

(3) If it is shown to the satisfaction of the Commissioner that it would be unreasonable in the special circumstances of the case to enforce all or any of the provisions of subsection (1) in respect of any class or description of chains, ropes and lifting tackle, he may by order direct that such provisions shall not apply as respects that class or description.

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

Cranes and other lifting machines.

(2) All such parts and gear as aforesaid shall be thoroughly examined by a competent person at least once in every period of fourteen months and a register shall be kept containing such particulars of every examination as may be prescribed.

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

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

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

(6) No lifting machine shall be taken into use in any factory for the first time in that factory unless it has been tested and all such parts and working gear of the machine as are specified in subsection (1) of this section have been thoroughly examined by a competent person and a certificate of such a test and examination specifying the safe working load or loads of the machine and signed by the person making the test and examination has been obtained and is kept available for inspection,

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

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

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

Construction and maintenance of floors, passages and stairs.

(2) For every staircase in a building or affording a means of exit from a building, a substantial hand-rail shall be provided and maintained, which, if the staircase has an open side shall be on that side, and, in the case of a staircase having two open sides, or in the case of a staircase which, owing to the nature of the construction thereof or the condition of the surface of the steps or other special circumstances, is specially liable to cause accidents, such a hand-rail shall be provided and maintained on both sides. Any open side of a staircase shall also be guarded by the provision and maintenance of a lower rail or other effective means.

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

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

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

Safe means of access and safe place of employment.

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

[§6, Law 12 of 1976.]

32. (1) Where work has to be done inside any chamber, tank, vat, pit, pipe, flue or similar confined space, in which dangerous fumes, toxic substances or harmful liquids are liable to be present or a deficiency of oxygen is liable to occur, to such an extent as to involve risk of persons being overcome thereby-

Precautions in places where dangerous fumes &c., are liable to be present or where deficiency of oxygen is liable to occur.

(a) the confined space shall, unless there is other adequate means of egress, be provided with a manhole, which may be rectangular, oval, or circular in shape, and shall be not less than eighteen inches long and sixteen inches wide or (if circular) not less than eighteen inches in diameter, or in the case of tank wagons and other mobile

[§ 7, Law 12 of 1976.]

plant not less than sixteen inches long and fourteen inches wide or (if circular) not less than sixteen inches in diameter; and

(b) no person shall enter the confined space for any purpose unless the following requirements are complied with:-

(i) all practicable steps shall be taken to remove any fumes, toxic substances or harmful liquids which may be present and to prevent any ingress of fumes and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, toxic substances or harmful liquids, the person entering shall wear a belt to which there is securely attached a rope of which the free end is held by a person outside; or

(ii) the person entering shall wear a suitable breathing apparatus;

(c) suitable breathing apparatus and a suitable reviving apparatus and suitable belts and ropes shall be provided and maintained so as to be readily accessible and shall be periodically inspected in such manner as may be prescribed; and

(d) a sufficient number of the persons employed shall be trained and practised in the use of such apparatus and in the method of restoring respiration:

Provided that the Chief Factory Inspecting Engineer may by certificate grant, subject to any conditions specified in the certificate, exemption from compliance with any of the aforesaid requirements in any case where he is satisfied that compliance with those requirements is unnecessary or impracticable.

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

(3) The Minister may, by regulations, provide for further precautions to be taken where work has to be done in any place referred to in subsection (1).

[§ 5, Law 12 of 1976.]

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

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

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

(3) Where any part of a plant contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened, except in accordance with the following provisions :—

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

Provided that this subsection shall not apply to plant installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat, until all practicable steps have been taken to remove the substance and any fumes arising therefrom, or to render them non-explosive or non-inflammable ; and if any plant, tank, or vessel has been subjected to any such an operation as aforesaid, 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 Factory Inspecting Engineer may by certificate grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of the last two foregoing subsections in any case where he is satisfied that compliance with the requirement is unnecessary or impracticable.

Steam
boilers.

34. (1) Every steam boiler, whether separate or one of a range-

(a) shall have attached to it-

- (i) 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 shall be fixed directly to or as close as practicable to, the boiler;
- (ii) a suitable stop-valve connecting the boiler to the steam pipe ;
- (iii) a correct steam pressure gauge connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler in

pounds per square inch, and have marked upon it in, a distinctive colour the maximum permissible working pressure ;

(iv) at least one water gauge of transparent material or other type approved by the Chief Factory Inspecting Engineer to show the water level in the boiler, and, if the gauge is of the glass tubular type and the working pressure in the boiler normally exceeds forty pounds per square inch, the gauge shall be provided with an efficient guard but not so as to obstruct the reading of the gauge;

(v) where it is one of two or more boilers, a plate bearing a distinctive number which shall be easily visible ; and

(b) shall be provided with means for attaching a test pressure gauge ; and

(c) unless externally fired, shall be provided with a suitable fusible plug or an efficient low water alarm device :

Provided that sub-paragraph (ii) of paragraph, (a) of this subsection shall not apply with respect to economisers, and sub-paragraphs (iii), (iv), and (v) of paragraph (a), and paragraphs (b) and (c) of this subsection shall not apply with respect to either economisers or superheaters.

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

(3) No person shall enter or be in any steam boiler which is one of a range of two 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 such entry are closed and securely locked, and, where the boiler has a blow-off pipe in common with one or more other boilers or delivering into a common blow-off vessel or sump, the blow-off valve or tap on each such boiler is so constructed that it can only be opened by a key which cannot be removed until the valve or tap is closed and is the only key in use for that set of blow-off valves or taps.

[§ 8, Law 12 of 1976.]

(3A) No person shall attend on or operate any steam boiler unless he is authorized in writing by the holder of a certificate issued under subsection (6). No person shall be authorized under this section unless after compliance with such requirements as may be prescribed.

[§ 8, Law 12 of 1976.]

(3B) (a) No steam boiler in use in any factory before the notified date shall be so used after a period of three months has elapsed from the notified date, unless a certificate of registration is issued by the Chief Factory Inspecting Engineer in respect of such boiler on application made in that behalf.

(b) On and after the notified date no new steam boiler shall be taken into use in any factory for the first time and no steam boiler which had been used in any factory shall be taken into use in any other factory for the first time unless a certificate of registration is issued by the Chief Factory Inspecting Engineer in respect of such steam boiler on application made in that behalf.

(c) The Minister may by regulations-

(i) prescribe the form of application and the form of certificate; and

(ii) require that records be maintained in respect of each steam boiler in such form as may be prescribed.

(4) Every part of every steam boiler shall be of good construction, sound material, adequate strength, and free from patent defect.

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

(6) Every steam boiler and all its fittings and attachments shall be thoroughly examined by a person who is the holder of a certificate issued in that behalf by the Commissioner at least once in every period of twelve months, and also after any extensive repairs: [§ 8, Law 12 of 1976.]

Provided that, in the case of any range of boiler used at the appointed date for the purposes of a process requiring a continuous supply of steam, any stop-valve on the range which cannot be isolated from steam under pressure need only be examined so far as is practicable without such isolation, but this proviso shall cease to have effect as soon as a reasonable opportunity arises for installing devices to enable the valve to be so isolated and, in any case, at the expiration of a period of three years from the appointed date.

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

(8) A report of the result of every such examination in such form and containing such particulars as may be prescribed (including the maximum permissible working pressure) shall, as soon as practicable and in any case within twenty-eight days of the completion of the examination, be entered in or attached to the general register, and the report shall be signed by the person making the examination, and if that person is an inspector of a boiler-inspecting company or association, countersigned by the chief engineer of the company or association or by such other responsible officer of the company or association as may be authorized in writing in that behalf by the chief engineer.

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

(9) (a) No new steam boiler shall be taken into use for the first time in any factory unless— [§ 5. 22 of 1946.]

- (i) there has been obtained from the manufacturer of the boiler or from a boiler-inspecting company or association, a certificate specifying the maximum permissible working pressure of the boiler and stating the nature of the tests to which the boiler and fittings have been submitted ; and
- (ii) the certificate is kept available for inspection on the premises of the factory ; and
- (iii) the boiler is so marked as to enable it to be identified as the boiler to which the certificate relates.

(b) No steam boiler which has previously been used in any other place shall be taken into use in any factory for the first time in that factory until the

[§5,22 of 1946.] boiler has been examined and reported on in accordance with the last three foregoing subsections, and unless such examination has been carried out after the installation of the boiler in the factory.

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

(11) The person making the report of any examination under this section, or, where that person is an inspector of a boiler-inspecting company or association, the chief engineer thereof, shall within twenty-eight days of the completion of the examination send to the District Factory Inspecting Engineer for the district a copy of the report in every case where the maximum permissible working pressure is reduced, or the examination shows that the boiler cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time.

[§3,18 of 1998.] (12) If the person employed to make any such examination fails to make a thorough examination as required by this section or makes a report which is false or deficient in any material particular, or if the chief engineer of any boiler-inspecting company or association permits any such report to be made, he shall be guilty of an offence and liable to a fine not exceeding twenty-five thousand rupees, and if any such person or chief engineer fails to send to the District Factory Inspecting Engineer for the district a copy of any report as required by the preceding subsection, he shall be guilty of an offence.

[§ 8, Law 12 of 1976.] (13) If the Chief Factory Inspecting Engineer is not satisfied as to the thoroughness of the examination, he may require the boiler to be re-examined by three persons nominated by him, and the occupier shall give the necessary facilities for such re-examination. If as a result of such examination it appears that the report of the examination was inadequate or inaccurate in any material particular, the cost of the re-examination shall be recoverable from the occupier as a debt due to the State and the report of the re-examination purporting to be signed by the persons making it shall be admissible in evidence and be prima facie evidence of the facts stated therein.

(14) In this Part, the expression "maximum permissible working pressure" means, in the case of a new steam boiler, that specified in the certificate referred to in subsection (9) of this section and in the case of a steam boiler which has been examined in accordance with the provisions of this section, that specified in the report of the last examination; and the expression "steam boiler" means any closed vessel in which for any purpose steam is generated under pressure greater than atmospheric pressure, and includes any hot water boiler working at a temperature of not less than 110 degrees centigrade, any economiser used to heat the water fed to any such vessel, and any super-heater used for heating steam. [§8,12 of 1976.]

(15) This section shall not apply to any boiler belonging to or exclusively used in the service of the State which is exempted therefrom by the Minister on the ground that an efficient staff is employed for keeping such boilers in sound condition.

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

- (a) a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure being exceeded ; and
- (b) a suitable safety valve so adjusted as to permit the steam to escape as soon as the safe working pressure is exceeded, or a suitable appliance for cutting off automatically the supply of steam as soon as the safe working pressure is exceeded ; and
- (c) a correct steam pressure gauge, which must indicate the pressure of steam in the receiver in pounds per square inch ; and
- (d) a suitable stop valve ; and
- (e) except where only one steam receiver is in use, a plate bearing a distinctive number which shall be easily visible.

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

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

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

(3) Every part of every steam receiver shall be of good construction, sound material, adequate strength, and free from patent defect.

(4) Every steam receiver and its fittings shall be properly maintained and shall be thoroughly examined by a person who is the holder of a certificate issued in that behalf by the Commissioner, so far as the construction of the receiver permits, at least once in every period of twenty-four months.

[§ 9, Law 12 of 1976.]

(4A) If the person employed to make any such examination fails to make a thorough examination required by this section or makes a report which is false or deficient in any material particular or if the chief engineer of any steam receiver inspecting company or association permits any such report to be made, he shall be guilty of an offence and be liable to a fine not exceeding twenty- five thousand rupees.

[§ 9, Law 12 of 1976.]

[§4,18 of 1998.]

(5) A report of the result of every such examination containing such particulars as may be prescribed (including particulars of the safe working pressure) shall be entered in or attached to the general register.

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

(7) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say ;—

" safe working pressure" means, in the case of a new steam receiver, that specified by the maker, and in the case of a steam receiver

which has been examined in accordance with the provisions of this section, that specified in the report of the last examination ;

" steam 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 ;

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

36. (1) Every air receiver shall—

Air receivers.

- (a) have marked upon it so as to be plainly visible the safe working pressure ; and
- (b) in the case of a receiver connected with an air compressing plant either be so constructed as to withstand with safety the maximum pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded ; and
- (c) be fitted with a suitable safety valve so adjusted as to permit the air to escape as soon as the safe working pressure is exceeded ; and
- (d) be fitted with a correct pressure gauge indicating the pressure in the receiver in pounds per square inch ; and
- (e) be fitted with a suitable appliance for draining the receiver ; and
- (f) be provided with a suitable manhole, handhole, or other means which will allow the interior to be thoroughly cleaned ; and

(g) in a case where more than one receiver is in use in the factory, bear a distinguishing mark which shall be easily visible.

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

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

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

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

[§ 10, Law 12 of 1976.]

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

(a) the person making any such examination may specify in writing a period exceeding twenty-four months but not exceeding four years within which the next examination is to be made; and

(b) if it is so constructed that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of internal examination.

Every such examination and test shall be carried out by a person who is the holder of a certificate issued in that behalf by the Commissioner and a report of the result of every such examination and test, containing such particulars as may be prescribed (including particulars of the safe working pressure) shall be entered in or attached to the general register.

(4A) If the person employed to make any such examination or test fails to make a thorough examination or test, as the case

[§ 10, Law 12 of 1976.]

may be, required by this section or makes a report which is false or deficient in any material particular or if the chief engineer of any air-receiver inspecting company or association permits any such report to be made, he shall be guilty of an offence and be liable to a fine not exceeding twenty-five thousand rupees.

[§5,18 of 1998.]

(5) In this section the expression "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; or

(c) any fixed 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

[§7, 33 of 2000.]

(d) any vessel in which oil, liquid or similar substance is stored and from which it is forced by compressed air or by any gas:

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

Gas receivers.
[§ 11, Law 12 of
1976.]

36A. (1) Every gas receiver shall-

- (a) have marked upon it so as to be plainly visible the safe working pressure;
- (b) in the case of a receiver connected with a compressing plant, either be so constructed as to withstand with safety the maximum pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded;
- (c) be fitted with a suitable safety valve so adjusted as to permit the gas to escape as soon as the safe working pressure is exceeded;
- (d) be fitted with a correct pressure gauge indicating the pressure in the receiver in pounds per square inch;
- (e) be fitted with a suitable appliance for draining the receiver; and
- (f) be provided with a suitable manhole, handhole, or other means which will allow the interior to be thoroughly cleaned.

(2) (a) In any case where, owing to the nature of the process or the action of the contents of any gas receiver, a pressure gauge or safety valve or both cannot be expected to work reliably, there may be installed, with the permission of the Chief Factory Inspecting Engineer and subject to compliance with paragraph (b) of this subsection, a tested and reliably working thermometer capable of recording a high degree of temperature on which there shall be clearly marked the maximum permissible temperature in the receiver.

(b) Where by reason of the technical processes in the receiver it is necessary to replace the safety valve by a thermometer, the receiver shall be equipped with a safety plug which will burst when the pressure rises by not more than twenty-five *per centum* above the authorised pressure. Where for any technical reason it is not possible to install such plug, there may be installed on one of the appliances (pressure gauge or thermometer) a suitable

signalling device that will begin to function when the pressure or temperature rises above the safe limit. Such signalling device shall be so constructed as to avoid the possibility of an explosion in the factory premises due to sparking in an explosive atmosphere or other such causes.

(3) In any case where explosive or poisonous gases may be introduced into or may from in the receiver, the irruption of such gases into workplaces shall be reliably prevented such as by means of pipes leading to the outside of the factory premises from safety valves and plugs or other devices. Before poisonous gases are allowed to escape outside the factory premises they shall be rendered harmless by a suitable filter or other device.

(4) On every vessel which is capable of being opened there shall be a reliable working device by means of which the pressure in the vessel will be reduced to atmospheric pressure before the vessel is opened.

(5) The fittings of vessels installed outside any premises shall be protected against atmospheric influences.

(6) Every receiver containing a liquified gas under pressure or a poisonous gas shall be protected against foreign sources of heat.

(7) Where more than one receiver is in use in any factory, every receiver shall bear a distinguishing mark which shall be easily visible.

(8) For the purpose of the preceding provisions of this section relating to safety valves and pressure gauges, any set of gas receivers supplied with gas through a single pipe may be treated as one receiver:

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

(9) Every gas receiver and its fittings shall be of sound construction properly maintained.

(10) Every gas receiver and its fittings shall be thoroughly cleaned and examined at least once in every period of twelve months:

Provided that where, in the case of a receiver of solid drawn construction, the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of internal examination.

Every such examination shall be carried out by a person who is the holder of a certificate issued in that behalf by the Commissioner, and a report of the result of every such examination containing such particulars as may be prescribed (including particulars of the safe working pressure) shall be entered in or attached to the general register.

(11) If the person employed to make any such examination fails to make a thorough examination, required by this section or makes a report which is false or deficient in any material particular or if the chief engineer of any gas receiver inspecting company or association permits any such report to be made, he shall be guilty of an offence and liable to a fine not exceeding *twenty-five thousand rupees.

[§6,18 of 1998.]

(12) The Minister may by regulations provide for additional safety measures to be taken in respect of different gases.

(13) In this section the expression "gas receiver" means-

(a) any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing a compressed gas and connected with a compressing plant; or

(b) any vessel for containing compressed, liquified or dissolved gases.

Exceptions as to steam boilers, steam receivers and containers, air and gas receivers, [§12, Law 12 of 1976.]

37. The Chief Factory Inspecting Engineer may by certificate except from any of the provisions of the last four preceding sections any class or type of steam boiler, steam receiver, steam container, air receiver or gas receiver to which he is satisfied that such provision cannot reasonably be applied. Any such exception may be unqualified or may be subject to such conditions as may be contained in the certificate.

* The amendment made to the Factories Ordinance by section 6 of the Factories (Amendment) Act, No. 18 of 1998, inadvertently amends subsection (2) of section 36A. The amendment should be to subsection (11).

FACTORIES

[Cap. 128]

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

Precautions as respects water-sealed gasholders.

(2) Every gasholder shall be thoroughly examined externally by a person who is the holder of certificate issued in that behalf by the Commissioner at least once in every period of two years, and a record containing such particulars as may be prescribed of every such examination shall be entered in or attached to the general register.

[§ 13, Law 12 of 1976.]

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

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

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

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

(6A) The Chief Factory Inspecting Engineer may, after taking into consideration the design, construction and capacity of any gasholder or a class of gasholder and the purpose for which such gasholder or class of gasholder is used, by certificate grant in respect of such gasholder or class of gasholder, subject to such conditions as may be specified therein, exemption from compliance with the provisions of this section.

[§ 13, Law 12 of 1976.]

[§ 13, law 12 of 1976.] (7) In this section the expression "gasholder" means a water-sealed gasholder.

Regulations. [§ 14, Law 12 of 1976.] **38A.** (1) The Minister may by regulations make provisions in respect of all matters relating to the issue of certificates referred to in sections 34, 35, 36 36A and 38.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), such regulations may prescribe-

- (a) for the issue of certificates and for their renewal annually;
- (b) the form of application for certificates and the fees to be paid together with such applications;
- (c) the qualifications or experience that an applicant should have;
- (d) the conditions to be attached to certificates and the circumstances in which the Commissioner may cancel any certificate.

Means of escape in case of fire. [§7,18 of 1998.] **39.** (1) Every factory to which this section applies shall be certified by a Factory Inspecting Engineer as being provided with such means of escape in case of fire for the persons employed therein as may reasonably be required in the circumstances of each case and, if any premises with respect to which no such certificate is in force are used as a factory, the occupier shall be guilty of an offence and liable on conviction thereof to a fine not exceeding twenty-five thousand rupees, and if the contravention in respect of which he was so convicted is continued after the conviction, he shall subject to the provisions of section 110, be guilty of a further offence and liable in respect thereof to a fine not exceeding five hundred rupees for each day on which the offence was so continued.

It shall be the duty of the District Factory Inspecting Engineer for every district to examine every such factory within the district and, on being satisfied that the factory is so provided as aforesaid, to give such certificate accordingly. The certificate shall specify precisely and in detail the means of escape provided, and shall contain particulars

as to the maximum number of persons employed or proposed to be employed in the factory as a whole and, if the Factory Inspecting Engineer thinks fit, in any specified part thereof, and as to any explosive or highly inflammable material stored or used and as to other matters taken into account in granting the certificate. The certificate shall be attached by the occupier to the general register.

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

(3) In the case of any factory constructed or converted for use as a factory before the coming into operation of this section no offence shall be deemed to be committed under this section by reason of the use of the factory during any period that may elapse between the coming into operation of this section and the grant or refusal of a certificate by the Factory Inspecting Engineer after examining the factory under this section, and if the Factory Inspecting Engineer refuses to grant a certificate in respect of the factory unless alterations are made, no such offence shall be deemed to be committed while the alterations are being carried out in accordance with the requirements of the Factory Inspecting Engineer.

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

(5) If the Factory Inspecting Engineer on receipt of the notice mentioned in the last foregoing subsection is of opinion that the conditions in regard to escape in case of fire will be affected, or if at any

time he is satisfied that by reason of changed conditions the existing means of escape have become insufficient, he may by notice in writing require the occupier to make such alterations, within such period, as may be specified in the notice.

(6) The occupier shall, within the period specified in any notice of the Factory Inspecting Engineer under this section, carry out any alterations required by the notice, and upon their being carried out the Factory Inspecting Engineer shall amend the certificate or issue a new certificate, and if the alterations are not so carried out, the Factory Inspecting Engineer shall, without prejudice to the taking of other proceedings, cancel the certificate.

(8)* If it appears to an Factory Inspecting Engineer that the conditions in regard to escape in case of fire in any factory to which this section applies are so dangerous that the factory or any part thereof ought not to be used, or ought not to be used for a particular process or work, until steps have been taken to remedy the danger, he may make a complaint to a Magistrate's Court and the court may, on being satisfied of the matters aforesaid, by order prohibit the use of the factory or part thereof, or its use for the particular process or work until such works have been executed as are in the opinion of the court necessary to remedy the danger.

When any works have been executed in pursuance of such an order as aforesaid, the Factory Inspecting Engineer shall amend any certificate in force under this section in respect of the factory, or issue a new certificate, as the case may require-

- (9) This section applies to every factory —
- (a) in which more than twenty persons are employed ; or
 - (b) which is being constructed or converted for use as a factory at the appointed date,

* Subsection (7) repealed by section 15 of Law No, 12 of 1976.

or is constructed or so converted after that date, and in which more than ten persons are employed in the same building on any floor above the ground floor of the building; or

(c) of which the construction has been completed before the appointed date and in which more than ten persons are employed in the same building above the first floor of the building or more than twenty feet above the ground level; or

(d) in or under which explosive or highly inflammable materials are stored or used.

40. (1) The Minister may make regulations as to the means of escape in case of fire to be provided in factories or any class or description of factory.

Regulations as to means of escape in case of fire.

(2) If a certificate has been issued under section 39 in respect of a factory which is not in conformity with the regulations under this section, the Factory Inspecting Engineer shall serve a notice on the occupier of the factory requiring him to make, within a specified period, such alterations as the inspector may consider necessary to bring the factory into conformity with the regulations, and the provisions of section 39 shall apply in relation to any such notice as they apply to a notice of the Factory Inspecting Engineer under that section.

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

Safety provisions case of fire.

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

(4) Every hoistway or liftway inside a building constructed after the coming into operation of this section shall, subject as hereinafter provided, be completely enclosed with fire-resisting materials, and all means of access to the hoist or lift shall be fitted with doors of fire-resisting materials :

Provided that any such hoistway or liftway shall be enclosed at the top only by some material easily broken by fire, or be provided with a vent at the top.

(5) The Chief Factory Inspecting Engineer may by certificate grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of the last foregoing subsection in any 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 red letters of an adequate size.

(7) Where in any factory more than twenty persons are employed in the same building, or explosive or highly inflammable materials are stored or used in

any building in which persons are employed, effective provision shall be made for giving warning in case of fire, which shall be clearly audible throughout the building.

[§16, Law 12 of 1976] (7A) The Minister may by regulations provide for the maintenance and testing of fire warnings referred to in subsection (7).

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

Instruction as to use of means of escape in case of fire.

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

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

Regulations requiring the installation of fire fighting appliances.

42A. (1) There shall be provided in every factory fire fighting appliances in accordance with the regulations made in that behalf.

[§ 17, Law 12 of 1976]

(2) The Minister may by regulations provide for the testing and examination of such appliances and for all matters relating to, connected with or incidental to the provision of fire fighting appliances in factories. Such regulations may prescribe different appliances and means to be provided in respect of different classes or descriptions of factories.

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

Power of Commissioner to require special safety arrangements for the prevention of accidents.
[§ 18, Law 12 of 1976]

44. (1) If on complaint by any person appointed under section 100 a Magistrate's Court is satisfied—

Power to make orders as to dangerous conditions and practices,

(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 risk of bodily injury ; or

[§ 19, Law 12 of 1976.]

(b) that any process of work is carried on or anything is or has been done in any factory in such a manner as to cause risk of bodily injury ;

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

(i) prohibit the use of that part of the ways, works, machinery or plant, or, if it is capable of repair or alteration, prohibit its use until it is duly repaired or altered, or

(ii) require the occupier to take such steps as may be specified in the order for remedying the danger complained of.

(2) Where a complaint is or has been made under subsection (1) of this section, the court may, on application *ex parte* by any person appointed under section 100, and on receiving evidence that the use of any such part of the ways, works,

machinery or plant, or as the case may be, the carrying on of any process or work or the doing of anything in such a manner as aforesaid, involves imminent risk of serious bodily injury, make an interim order prohibiting, either absolutely or subject to conditions, the use, carrying on or doing thereof until the earliest opportunity for hearing and determining the complaint.

Power to make orders as to safety of factory premises.
[§ 20, Law 12 of 1976]

44A. (1) Where a Magistrate's Court is satisfied on complaint by any person appointed under section 100 that any premises which are or are part of or are intended to be used as a factory are in such a condition, or are so controlled or placed, that any process or work carried on therein, or intended to be carried on therein, cannot be so carried on with due regard to the safety, health and welfare of the persons employed, the court may by order prohibit the use thereof for the purpose of that process or work and, in the case of premises which are intended to be used as a factory, the court may make the like order if satisfied on complaint by any person under section 100 that the process or work cannot be carried on therein without a contravention of this Ordinance or any regulation or order made hereunder.

(2) The carrying on of any process or work may, by an order under subsection (1) of this section, be prohibited either indefinitely or until such steps have been taken as may be specified in the order to enable the process or work to be carried on with due regard to the safety, health and welfare of the persons employed or without such a contravention as aforesaid, as the case may be ; but any such order may be revoked or varied on the application by way of complaint of the occupier or owner of the premises.

(3) On any application for the revocation or variation of an order under subsection (1) of this section the complainant shall be entitled or to be heard.

45. No machinery of any type or description which is not expressly referred to in this Part shall—

Regulation of the use of other machinery.

- (a) be used in a factory unless such machinery is of sound material, good mechanical construction and adequate strength, is fitted with such safety devices and is installed in such manner as may be prescribed by regulation for that type or description of machinery ; or
- (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery.

PART IV

WELFARE (GENERAL PROVISIONS)

46. (1) There shall be provided and maintained at suitable points conveniently accessible to all persons employed an adequate supply of wholesome drinking water from a public main or from some other source approved in writing by the District Factory Inspecting Engineer for the district, such approval not to be withheld except on the ground of the unwholesomeness of the water.

Supply of drinking water.

(2) A supply of drinking water which is not laid on shall be contained in suitable vessels, and shall be renewed at least daily, and all practicable steps shall be taken to preserve the water and vessels from contamination ; and a drinking water supply (whether laid on or not) shall, in such cases as the District Factory Inspecting Engineer for the district may direct, be clearly marked " Drinking Water ".

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

Regulations
as to washing
facilities.

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

Accommoda-
tion for
clothing.

48. (1) There shall be provided and maintained for the use of employed persons adequate and suitable accommodation for clothing not worn during working hours; and such arrangements as are reasonably practicable or, when a standard is prescribed, such arrangements as are laid down thereby shall be made for drying such clothing.

(2) The Minister may by regulations prescribe, either generally or as respects any class or description of factory, a standard of suitable accommodation for such clothing and of arrangements for drying such clothing.

(3) The Registrar may by order provide for the exemption of factories from any of the requirements of this section in cases where by reason of such special circumstances as may be specified in the order the application of the requirement would in his opinion be unreasonable.

Facilities for
resting for
female
workers.

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

First-aid.

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

For the purposes of this provision the number of persons employed in a factory shall be taken to be the largest number of persons employed therein at any one time, and any fraction of one hundred and fifty

shall be reckoned as one hundred and fifty. Where the persons employed are employed in shifts the calculation of the number employed shall be according to the largest number at work at any one time.

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

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

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

PART V

HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND REGULATIONS)

51. (1) In every factory in which, in connexion with any process carried on, there is given off any dust or fume or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the persons employed, or any substantial quantity of dust of any kind, all practicable measures shall be taken to protect the persons employed against inhalation of the dust or fume or other impurity and to prevent its accumulating in any workroom, and in particular, where the nature of the process makes it

Removal of
dust or
fumes.

practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust or fume or other impurity, so as to prevent it entering the air of any workroom.

(2) No stationary internal combustion engine shall be used unless—

(a) provision is made for conducting the exhaust gases 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 or part of a 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.

Precautions where asphyxiant or irritant gas or vapour is used or is liable to be present.
[§21, Law 12 of 1976]

51A. (1) Where ammonia, chlorine, carbon dioxide or other asphyxiant or irritant gas or vapour is used or is liable to be present in any factory, the plant or equipment in which such asphyxiant, gas or vapour is used or liable to be present shall be located in such part of the factory premises where persons are not ordinarily employed in any work.

(2) There shall be provided, properly maintained and readily available in any factory where any such asphyxiant gas or vapour is used or liable to be present, breathing apparatus or other equipment of a type approved by the Chief Factory Inspecting Engineer.

(3) No person shall be employed to work at or near the outlet of any slack culvert, drain, flue or sewer or other such place from which dangerous gases or fumes are liable to be discharged—

- (a) unless a responsible person in the factory has certified in writing that effective measures have been taken to prevent such discharge ; or
- (b) unless—
 - (i) such person is wearing breathing apparatus approved by the Chief Factory Inspecting Engineer while carrying out such work;
 - (ii) such person is wearing a harness with a rope or ropes or tackle securely attached to the harness and the other end of such rope or ropes is so placed as to enable such person to be rescued in the event of any danger ; and
 - (iii) the work is being carried out under the supervision of a responsible person in such factory.

52. (1) Where in any room lead, arsenic or other poisonous substance is so used as to give rise to any dust or fume, a person shall not be permitted to partake of food or drink in that room or to remain in that room during the intervals allowed to him for meals or rest other than intervals allowed in the course of a spell of continuous employment.

Meals in certain dangerous trades.

(2) Where in any room a process prescribed by regulations made by the Minister is carried on, being a process which gives rise to siliceous dust or asbestos dust, a person shall not be permitted to remain in that room during the intervals allowed to him for meals or rest other than intervals allowed in the course of a spell of continuous employment.

(3) Suitable provision shall be made for enabling the persons employed in any such room as is mentioned in the last two foregoing subsections to take their meals elsewhere in the factory.

(4) Where it appears to the Commissioner 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, if he thinks fit, by order extend all or any of the provisions of subsections (1) and (3) of this section to rooms where that process is carried on.

Protection of eyes.
[§22, Law 12 of 1976]

53. (1) Where any process or operation carried on in any factory involves a special risk of injury to the eyes of persons employed in such process or operation or to the eyes of person working close to the place where such process or operation is in progress, there shall be provided suitable eye protection for such persons.

(2) The Minister may by regulations—

(a) provided for the type of protection to be provided generally and in any class or description of factory;

(b) provided that, in such circumstances as may be prescribed, qualified persons be engaged in the supply, fitting and changing of eye protectors;

(c) provide that persons with defective eye sight be supplied with special eye protectors; and

(d) provide generally for all matters connected with or incidental to the matters aforesaid.

Protection from radiation and vibration,
[§23, Law 12 of 1976]

53A. (1) No person employed in any factory shall be exposed to ionizing radiation, or laser, ultraviolet or infrared rays or other electro magnetic radiation or be subjected to vibration including ultra-sonic vibrations, to an extent which is more than is necessary for the purposes of the work in which such person is employed.

(2) The Minister may by regulations prescribe specific measures to be taken to minimize the danger to the health of persons employed in such factories.

54. The Minister may make such special regulations as appear to him to be reasonably practicable for extending the provision and use in factories, in which the weaving of cotton or other cloth is carried on, of shuttles which are not capable of being threaded or readily threaded by suction of the mouth, and any such regulations may impose duties on persons employed as well as on occupiers.

Shuttle
threading by
mouth suction.

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

Prohibition of
use of white
phosphorus in
manufacture of
matches,

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

56. (1) No work shall be carried on in any underground room (not being an underground room used only for the purpose of storage or for some purpose excepted by order of the Commissioner) which is certified by the District Factory Inspecting Engineer for the district to be unsuitable for the purpose as regards construction, height, light or ventilation, or on any hygienic ground, or on the ground that adequate means of escape in case of fire are not provided :

Underground
rooms.

Provided that, where the Factory Inspecting Engineer certifies as unsuitable any room which 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.

(2) In the case of any underground room which at the appointed date does not form part of a factory or is not used as a workroom in a factory or is used only for the purpose of storage or for some purpose excepted as aforesaid—

(a) the occupier shall, before the room is used for work for which it may be certified as unsuitable under this section, give notice, in such form and containing such particulars as may be prescribed, to the District Factory Inspecting Engineer for the district; and

(b) shall not use the room for any such process as may be prescribed, being a process of a hot, wet, or dusty nature, or which is liable to give off any fume, without the consent in writing of the District Factory Inspecting Engineer for the district.

(4)* In this section the expression "underground room" means any room which or any part of which is so situated that half or more than half the whole height thereof, measured from the floor to the ceiling, is below the surface of the footway of the adjoining street or of the ground adjoining or nearest to the room.

(5) Any certificate issued under this section may be withdrawn by the Chief Factory Inspecting Engineer if such alterations are made as in his opinion to render the room suitable-

Laundries.

57. In every laundry—

(a) effective steps shall be taken by means of a fan or otherwise to regulate the temperature in every ironing room, and to carry away the steam in every wash-house ;

(b) all stoves for heating irons shall be so separated from any ironing room or ironing table as to protect the workers from the heat thereof ;

(c) no gas iron emitting any noxious fumes shall be used.

* Subsection (3) has been repealed by section 24 of Law No. 12 of 1976.

58. (1) No person shall be employed to lift, carry or move any load so heavy as to be likely to cause injury to him.

Lifting excess weights.
[§25, Law 12 of 1976]

(2) The Minister may make special regulations prescribing the maximum weights which may be lifted, carried or moved by persons employed in factories; and any such regulations may prescribe different weights in different circumstances and may relate either to persons generally or to any class of persons or to persons employed in any class or description of factory or in any process.

58A. (1) No person employed in any factory shall be exposed to noise above a prescribed upper limit, unless such person is provided, with suitable ear defenders.

Prevention of noise.
[§26, Law 12 of 1976]

(2) The Minister may by regulations provide for the measures to be taken to reduce noise in any class or description of factory.

58B. (1) In every factory where electrical energy is generated, transformed, distributed or used and in every premises referred to in section 80, every electrical apparatus, fitting and conductor—

Precautions to be taken in factories where electricity is generated, &c.
[§26, Law 12 of 1976]

- (a) shall be of such size and power as would be sufficient for the purpose for which it is intended ;
- (b) shall be so constructed, installed, protected, worked and maintained as to prevent, as far as practicable, danger to persons working in the factory; and
- (c) shall conform to such other requirements as may be prescribed.

(2) In respect of factories to which subsection (1) applies, the Minister may in particular make regulations with regard to the following :—

- (a) the provision of safety equipment;
- (b) the manner in which the examination of, and repairs to, electrical apparatus, fittings and equipment are to be carried out;
- (c) requiring the exhibition of notices warning against danger;
- (d) the precautions to be taken in the selection and erection of electrical equipment;
- (e) the fencing and enclosure of equipment;
- (f) the construction, maintenance and working of transformers and switch houses;
- (g) the provision of electrical control gear;
- (h) safety measures to be taken with regard to switch boards;
- (i) electrical installations in explosive atmospheres;
- (j) the use of portable electrical hand tools and lights;
- (k) the earthing of equipment, apparatus and fittings;
- (l) the laying of bare conductors in buildings; and
- (m) the construction and maintenance of overhead service mains and consumers' conductors.

SPECIAL REGULATIONS FOR SAFETY AND HEALTH

59. (1) Where the Minister is satisfied that any manufacture, machinery, plant, process, or description of manual labour, used in factories is of such a nature as to cause risk of bodily injury to persons employed in connexion therewith, or any class of those persons, the Minister may, subject to the provisions of this Ordinance, make such special regulations as appear to him to be reasonably practicable and to meet the necessity of the case.

Power to make special regulations for safety and health.

(2) Special regulations so made may, among other things —

- (a) prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connexion with any manufacture, machinery, plant, process, or description of manual labour; or
- (b) prohibit, limit, or control the use of any material, or process; or
- (c) modify or extend with respect to any class or description of factory any provisions of Part II, Part III, or this Part, being provisions imposing requirements as to health or safety;

and may impose duties on owners, employed persons and other persons, as well as on occupiers.

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

SUPPLEMENTARY PROVISIONS

Power to
p hoto graph, take
samples, &c.
[§27, Law 12 of 1976]

60. (1) Any District Factory Inspecting Engineer or any person authorized in writing by the Chief Factory Inspecting Engineer may at any time after informing the occupier or if the occupier is not readily available, the manager, or the superintendent (in the case of an estate factory), a foreman or other responsible person in the factory,—

- (a) take for analysis sufficient samples of any material in use or mixed for use in the manufacture of any article in any factory;
- (b) take for analysis sufficient number of articles produced in any factory;
- (c) take for analysis any substance used or intended to be used in any factory being a substance in respect of which he suspects a contravention of any regulation made under this Part of this Ordinance, or which in his opinion is likely to cause bodily injury to any person employed;
- (d) photograph or make any sketch of any factory or machinery or any article found in such factory ; or
- (e) take for production at any investigation, inquiry or trial any machinery or article found in any factory.

[§27, Law 12 of 1976]

(2) The occupier or the manager or the superintendent (in the case of an estate factory), or the foreman or other responsible person aforesaid may, at the time when a sample is taken under this section, and on providing the necessary appliances, require the District Factory Inspecting Engineer or the person authorized by the Chief Factory Inspecting Engineer to divide the sample into three parts, to mark and seal or fasten up each part in such manner as its nature permits, and—

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(a) to deliver one part to the occupier or the manager or the superintendent (in the case of an estate factory) or the foreman or other responsible person aforesaid;

(b) to retain one part for future comparison;

(c) to submit one part to the analyst;

and any analysis under this section shall, if so required, be carried out by the Government Analyst's Department or any Government Laboratory or any Government Institution.

(3) A certificate purporting to be a certificate by the Government Analyst or the head of such Government Laboratory or Institution as to the result of an analysis of a sample under this section shall in any proceeding under this Ordinance be admissible as evidence of the matter stated therein but either party may require the person by whom the analysis was made to be called as a witness. [§27, Law 12 of 1976]

(4) It shall not be lawful for any person, except in so far as is necessary for the purposes of a prosecution for an offence under this Ordinance, to publish or disclose to any person the results of an analysis made under this section, and if any person acts in contravention of this subsection, he shall be liable to a fine not exceeding twenty-five thousand rupees. [§8, 18 of 1998]

PART VI

NOTIFICATION AND INVESTIGATION OF ACCOUNTS AND INDUSTRIAL DISEASES.

61. (1) Where any accident occurs in a factory which— Notification of accidents.
[§28, Law 12 of 1976]

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

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

(c) makes any such person unconscious as a result of heat, exhaustion, electric shock or inhalation of irrespirable or poisonous fumes or gases,

written notice of the accident, in such form and accompanied by such particulars as may be prescribed, shall forthwith be sent by the occupier or manager or the superintendent (in the case of an estate factory) to the District Factory Inspecting Engineer.

(2) Where any accident causing disablement is notified under this section, and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the District Factory Inspecting Engineer by the occupier or manager or the superintendent (in the case of an estate factory) as soon as the death comes to his knowledge.

[§9,18of 1998]

(3) Where any accident to which this section applies occurs to a person employed and the occupier of the factory is not the actual employer of the person killed or injured, the occupier or manager, or the superintendent (in the case of an estate factory), shall obtain from the actual employer of the person killed or injured, written notice of the accident, in such form and accompanied by such particulars as may be prescribed and shall forthwith cause such notice of accident to be sent to the District Factory Inspecting Engineer.

(4) Where an accident occurs in the factory causing the death of any person employed therein, no person shall touch or disturb or cause any other person to touch or disturb, without the permission of a Factory Inspecting Engineer, any machinery or any article which was involved in such accident, other than for the purpose of extricating or attending on any person concerned in such accident.

Power to extend to dangerous occurrences provisions as to notice of accidents.

62. (1) If the Minister considers that, by reason of the risk of serious bodily injury to persons employed, it is expedient that notice should be given under section 61 in every case of any special class of explosion, fire, collapse of buildings, accidents to machinery or plant,

or other occurrences in a factory, the Minister may by regulations extend the provisions of that section to any such class of occurrences, whether death or disablement is caused or not.

(2) The Minister may by any such regulations allow the required notice of any occurrence to which the regulations relate, instead of being sent forthwith, to be sent within the time limited by the regulations.

63. (1) Every registered medical practitioner attending on or called in to visit a patient whom he believes to be suffering from lead, phosphorous, arsenical or mercurial poisoning, or anthrax, contracted in any factory, shall (unless such a notice has been previously sent) forthwith send addressed to the Chief Factory Inspecting Engineer a notice stating the name and full postal address of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, and the name and address of the factory in which he was last employed, and shall be entitled in respect of every notice sent in pursuance of this section to a fee of two hundred rupees to be paid out of the Consolidated Fund.

Notification of industrial diseases. [§29, Law 12 of 1976]

[§10,18 of 1998]

(2) If, in contravention of the provisions of this section, any medical practitioner fails to send any notice in accordance with the requirements thereof, he shall be liable to a fine not exceeding five hundred rupees.

[§10,18 of 1998]

(3) Written notice of every case of lead, phosphorous, or arsenical or mercurial poisoning, or anthrax, occurring in a factory shall forthwith be sent by the occupier, in such form and accompanied by such particulars as may be prescribed to the District Factory Inspecting Engineer and to an authorized factory doctor; and the provisions of this Ordinance with respect to the notification of accidents shall apply to any such case in like manner as to any such accident as is mentioned in those provisions.

[§29, Law 12 of 1976]

(4) The Minister may, as respects all factories or any class or description of factory, by regulations apply the provisions of this section to any disease other than those mentioned in this section.

Investigation into case of death by accident or industrial disease.

64. (1) Where it appears to an inquirer holding an investigation under the Code of Criminal Procedure Act, No. 15 of 1979, into the cause of the death of any person that the death of that person may have been caused by any accident or disease of which notice is required by this Ordinance to be given, the inquirer shall adjourn the investigation unless a Factory Inspecting Engineer or some person on behalf of the Commissioner is present to watch the proceedings, and shall, at least four days before holding the adjourned investigation, send to the District Factory Inspecting Engineer for the district notice in writing of the time and place of holding the adjourned investigation :

Provided that—

- (a) the inquirer, before the adjournment, may take evidence to identify the body , and may order the interment thereof; and
- (b) if the investigation relates to the death of not more than one person, and the inquirer has sent to the Factory Inspecting Engineer notice of the time and place of holding the investigation at such time as to reach the Factory Inspecting Engineer not less than twenty-four hours before the time of holding the investigation, it shall not be imperative on him to adjourn the investigation in pursuance of this section if he thinks it unnecessary so to adjourn.

(2) At any investigation referred to in subsection (1), the following persons shall, subject to the power of the inquirer to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by attorney-at law or agent, that is to say, a Factory Inspecting Engineer, any relation of the person in respect of whose death the investigation is being held, the occupier of the factory in which

the accident or disease occurred or was contracted, any person appointed by the order in writing of the majority of the persons employed in the factory, and any person appointed in writing by any trade union, friendly society or other association of persons to which the deceased at the time of his death belonged or to which any person employed in the factory belongs, or by any association of employers of which the occupier is a member.

(3) Where evidence is given at any such investigation at which a Factory Inspecting Engineer is not present of any neglect as having caused or contributed to the accident or disease, or of any defect in or about the factory appearing to the inquirer to require a remedy, the inquirer shall send to the District Factory Inspecting Engineer for the district notice in writing of the neglect or defect.

(4) Any reference in this section to an inquirer shall be deemed to include a reference to a Magistrate.

65. (1) The Minister may, where he considers it expedient so to do, direct a formal investigation to be held into 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 any such investigation the following provisions shall have effect ;—

Power to direct formal investigation of accidents and cases of disease.

- (a) the Minister may appoint a competent person to hold the investigation, and may appoint any person possessing legal or special knowledge to act as assessor in holding the investigation;
- (b) the person or persons so appointed (hereinafter in this section referred to as "the court") shall hold the investigation in open court in such manner and under such conditions as the court may think most effectual for ascertaining the

causes and circumstances of the accident or case of disease, and for enabling the court to make the report in this section mentioned ;

- (c) the court shall have for the purposes of the investigation all the powers of a Magistrate when hearing complaints relating to offences under this Ordinance, and all the powers of a Factory Inspecting Engineer under this Ordinance, and, in addition, power—
- (i) to enter and inspect any place or building the entry or inspection whereof appears to the court requisite for the said purposes ;
 - (ii) by summons signed by the court to require the attendance of all such persons as it thinks fit to call before it and examine for the said purposes, and to require answers or returns to such inquiries as it thinks fit to make ;
 - (iii) to require the production of all books, papers, and documents which it considers important for the said purposes ;
 - (iv) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination ;
- (d) witnesses attending the court to give evidence shall be paid expenses according to such scale as may be prescribed by regulations made by the Minister ;
- (e) the court shall make a report to the Minister stating the causes and circumstances of the accident or case of disease and its circumstances, and adding any observations which the court thinks right to make ;
- (f) the court may require the expenses incurred in and about an investigation under this section (including the remuneration of any persons appointed to act as assessors) to be paid in whole or part by any person summoned before

it who appears to the court to be, by reason of any act or default on his part or on the part of any servant or agent of his, responsible in any degree for the occurrence of the accident or case of disease, but any such expenses not required to be so paid shall be met out of the Consolidated Fund;

[§11,18 of 1998.] (g) any person who without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of the court, or prevents or impedes the court in the execution of its duty, shall be guilty of an offence, and liable to a fine not exceeding five thousand rupees, and, in the case of a failure to comply with a requisition for making any return or producing any document, if the failure in respect of which a person was so convicted is continued after the conviction, he shall (subject to the provisions of section 110) be guilty of a further offence and liable in respect thereof to a fine not exceeding five thousand rupees for every day on which the failure was so continued.

(2) The Minister may cause the report of the court to be made public at such time and in such manner as he thinks fit.

Duty of authorized factory doctor to investigate and report in certain cases. [§30, Law 12 of 1976]

66. (1) It shall be the duty of the authorized factory doctor to investigate and report—

- (a) upon cases of death or injury caused by exposure in a factory to fumes or other noxious substances, or due to any other special cause specified in instructions of the Commissioner as requiring investigation; and
- (b) upon any case of death or injury which the District Factory Inspecting Engineer in pursuance of any general or special instructions of the Commissioner may refer to him for that purpose; and
- (c) upon any case of disease of which he receives notice under this Ordinance.

(2) The authorized factory doctor for the purpose of an investigation under this section, shall have the like powers as a Factory Inspecting Engineer, including power to enter any room in a building to which the person killed, injured, or affected has been removed.

FACTORIES

[Cap. 128

66A. Where any claim for insurance compensation in respect of an accident, dangerous occurrence or an industrial disease referred to in sections 61, 62 and 63 of this Ordinance is made to an insurer authorized by or under any law to carry on insurance business in Sri Lanka, such insurer shall furnish to the Chief Factory Inspecting Engineer, such particulars relating to such accident, dangerous occurrence or industrial disease as may be required of him by the Chief Factory Inspecting Engineer.

Insurer to furnish information to the Chief Factory Inspecting Engineer.
[§10,33 of 2000.]

PART VII

EMPLOYMENT OF WORKERS HOURS AND HOLIDAYS

[§3,54 of 1961.]

67. Subject to the provisions of this Part, the hours worked, the period of employment, and the intervals for meals and rest, for every woman or young person employed in a factory shall conform to the following conditions, namely;—

General conditions as to hours of employment of women and young persons.

(a) the total hours worked, exclusive of intervals allowed for meals and rest, shall neither exceed nine in any day nor exceed forty-eight in any week;

(b) the period of employment in the case of young persons who have not attained the age of sixteen shall not exceed twelve hours in any day and shall neither begin earlier than six o'clock in the morning nor end later than six o'clock in the evening, and in the case of young persons who have not attained the age of eighteen the period of employment shall not end later than eight o'clock in the evening, and, on not less than one day in the week, one o'clock in the afternoon.

[§5,32 of 1984.]

(c) a woman or young person shall not be employed continuously for a spell of more than four and a half hours without an interval of at least half an hour for a meal or rest, so, however, that in respect of regular day time workers, one such interval shall be allowed to commence between the hours of eleven o'clock in the morning and one o'clock in the afternoon, and that where an interval of not less than ten minutes is allowed in the course of a spell, the spell may be increased to five hours.

[§11,33 of 2000.]

67A. (1) Subject to the provisions of this Part every woman employed in a factory shall be permitted to work throughout the night.

Employment of women at night in a factory or an industrial undertaking.
[§6,32 of 1984.]

(2) Employment of a woman at night, in a factory shall be subject to the Following conditions:—

- (a) no woman shall be compelled to work at night against her will;
- (b) that written sanction of the Commissioner of Labour should be obtained by every occupier of a factory prior to the employment by him, of women, to work after 10 p.m. at night;
- (c) no woman who has been employed during the hours of 6 a.m. and 6 p.m. shall be employed after 10 p.m. on any day;
- (d) every woman who works at night shall be in receipt of a payment of not less than one and a half times the normal, payment received by her;
- (e) there shall be appointed female wardens to see to the welfare of women workers, who work at night,
- (f) every woman worker, working at night shall be provided with rest rooms and refreshments by the employer;
- (g) no woman shall be employed for more than ten days on night work, during any one month.

Overtime employment of women and young persons over sixteen.

68. (1) Notwithstanding the provisions of this Part relating to hours worked and periods of employment, pressure of work in any factory may be dealt with by the overtime employment of women and young persons who have attained the age of sixteen :

Provided that the overtime worked by any woman or by any young person who has attained the age of sixteen shall not exceed in the aggregate one hundred hours in any calendar year or six hours in any week and no woman and no such young person shall work overtime in more than twenty-five weeks in any calendar year.

(2) The overtime employment of a woman or young person shall be subject to the following conditions:—

(a) the total hours worked by the woman or young person, exclusive of intervals allowed for meals and rest, shall not exceed ten on any day ;

[§7,32 of 1984.]

(b) the period of employment for the woman or young person shall not exceed twelve hours in any day and shall not in the case of young persons extend outside the hours specified in this Part for the beginning and end of the period of employment.

(3) The provisions of this Part relating to continuous employment and intervals for meals or rest shall apply to overtime employment in like manner as they apply to other employment.

(4) If the Minister is satisfied that overtime employment of young persons, in accordance with the foregoing provisions of this section, in any process will prejudicially affect the health of the young persons, or any class of them, the Minister may by regulations either prohibit the overtime employment in that process of those young persons, or that class of them,

or make such further restrictions as to the amount of such overtime employment or otherwise as the Minister may think fit.

(5) If representations are made to the Minister with respect to any class or description of factory that, having regard to the particular circumstances and conditions affecting the industry carried on therein, the overtime employment allowed under this section can be reduced without serious detriment to that industry, the Minister may, after consultation with any such association of occupiers or employed persons and any such wages board or similar body as appears to him to be affected, direct an inquiry to be held, and if the Minister is satisfied, as the result of the inquiry, that the overtime employment can be reduced without serious detriment to the industry, the Minister may by regulations make such modifications in the provisions of this section, in their application to the class or description of factory aforesaid, as will secure the reduction of the amount of overtime employment of women and young persons, or of young persons, employed therein.

(6) Where the Minister is satisfied that work in any class or description of factory is subject to seasonal or other special pressure, the Minister may by regulations, as respects that class or description of factory, increase for women, or for women employed in any specified process, during any period of such pressure, the hours of work and the period of employment allowed in a day under this section, so however that the increase shall only take place in such number of weeks, not exceeding eight in any year, as may be specified in the regulations.

69. For the purposes of this Part—

(a) the expression " overtime employment " means, in relation to any woman or young person, any period during which that woman or young person is at work in the factory in addition to the total number of hours worked by that woman or young person under paragraph (a) of section 67 ;

Definition of
" overtime
employment".

(b) in, calculating hours of overtime employment any fraction of an hour less than half an hour shall be treated as half an hour and any fraction of an hour greater than half an hour shall be treated as an hour.

Register of overtime.

70. The occupier of every factory shall keep and maintain a register, in such form as may be prescribed by regulations, setting out particulars of the overtime work performed by each woman or young person employed in the factory.

Restriction of employment inside and outside factory on same day.

71. (1) A woman or young person shall not, during any interval allowed to that woman or young person for a meal or rest, or any time not included in the period of employment of that woman or young person be employed outside the factory, in the business of the factory or in any other business carried on by the occupier, on any day during which the woman or young person is employed in the factory :

Provided that a woman or young person who has attained the age of sixteen may be so employed in a shop outside the period of employment, but any such employment shall be treated for the purposes of this Part (including the provisions relating to overtime employment) as employment in the factory.

(2) For the purposes of this section, a woman or young person to or for whom any work is given out or who takes out any work to be done by her or him outside the factory, shall be deemed to be employed outside the factory on the day on which the work is so given or taken out.

Prohibition of use of rooms during intervals.

72. Subject to such regulations as may be made under section 76, a woman or young person shall not during any part of the intervals allowed to that woman or young person for meals or rest be allowed to remain in a room in which a process is then being carried on.

73. (1) Subject to such regulations as may be made under subsection (2) or section 76, Weekly and annual holidays.

(a) a young person shall not be employed in a factory on a Sunday or on such other week day as may be prescribed in lieu of Sunday, nor shall a young person employed in any factory on any other day of the week, be employed on Sunday or such prescribed week-day about business of the factory or in any other business carried on by the occupier; and [§8, 32 of 1984.]

(b) every woman or young person employed in a factory shall in each year be allowed whole holidays on six consecutive week-days which shall be fixed by the occupier and notified by means of a notice posted up in the factory throughout a period of not less than three weeks before the first of such week-days.

(2) If the Minister is satisfied that, by reason of the fact that the materials in course of treatment in any class or description of factory are subject to rapid deterioration, or that by reason of any other circumstances or conditions obtaining in the case of any class or description of factory, the application of the provisions of paragraph (a) of subsection (1), in the case of factories of that class or description would cause serious interference with the efficient performance of work in such factories, the Minister may by regulations exempt factories of that class or description from the provisions of the said paragraph, subject to such conditions as may be prescribed, so, however, that such regulations shall ensure to each woman and young person employed in any such factory at least one whole holiday after each period of not more than six days during which that woman or young person has been employed in that factory.

74. The foregoing provisions of this Part shall not apply to workers holding responsible positions of management who are not ordinarily engaged in manual work. Exception as to workers holding positions of management. [Gazt Extry. No. 14,726 / 12 of 22.12.1966,]

Power to suspend certain provisions of Part VII in emergency.

75. The Commissioner may, in the event of accident, or breakdown of machinery or plant, or other unforeseen emergency, by order suspend, as respects any factory, any of the provisions of this Part as to hours and holidays for such period as may be specified in the order, but so far only as may be necessary to avoid serious interference with the ordinary working of the factory and not so as to conflict with any enactment which gives effect to an international convention restricting the employment of women or young persons in factories.

Provision for protection of women and young persons employed under exceptions.

76. Where it appears to the Minister that the adoption of any special provision is required for the protection of the health or welfare of women or young persons employed overtime under this Part, the Minister may by regulations direct that the adoption of the provision shall be a condition of such employment in addition to any other conditions specified in this Part.

Certificate of fitness for employment of young persons. [§ 31, Law 12 of 1976]

77. (1) Subject to the provisions of this section, a young person who has not attained the age of sixteen and is taken into any employment in a factory, shall not remain in that employment after the expiration of such period, not being less than seven days, as may be prescribed, unless he has been examined by the authorised factory doctor and certified by him to be fit for that employment.

(2) Where the authorized factory doctor after examining a young person, requires further information or further time for consideration before deciding whether or not to certify him as fit for employment or as to the conditions subject to which the certificate is to be issued, he may issue a provisional certificate authorizing the employment of the young person for such period as may be certified in the certificate, not exceeding twenty-one days from the date on which it was issued.

(3) Any certificate by the authorized factory doctor may be issued—

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- (a) in respect of employment in all factories in the occupation of the same occupier, or such of them as may be specified in the certificate;
- (b) subject to conditions as respects the nature of the work in which the person concerned is to be employed;
- (c) subject to a condition that he shall be re-examined after an interval specified in the certificate.
- (4) Where a certificate under this section in respect of any young person is issued by the authorized factory doctor upon any such condition as aforesaid, the young person shall not be employed except in accordance with the condition.
- (5) Where the authorized factory doctor so directs in the certificate, any such condition as aforesaid shall, so far as relates to the employment in respect of which the certificate was issued or other employment in a factory in the occupation of the same occupier, continue to have a effect after the young person has attained the age of sixteen; but unless such direction is made, the condition shall cease to have effect when the young person attains the age of sixteen, and shall in any case cease to have effect when the young person attains the age of eighteen.
- (6) Where a certificate under this section is subject to a condition requiring re-examination after an interval specified in the certificate, the authorized factory doctor, on such re-examination, may vary the certificate or may revoke the certificate as from such date as he may direct; and, if the certificate of a young person is revoked before he attains the age of sixteen, he shall not remain in any employment to which the certificate relates, and subsection (1) of this section shall thereafter have effect as if no certificate had been issued in respect of that young person.
- (7) Where a certificate under this section in respect of any young person is refused or revoked, the authorized factory doctor shall, if requested to do so by the parent of the young person, give to the parent in writing the reasons for the refusal or revocation.

- (8) The Minister may make regulations prescribing—
 - (a) the manner in which, and the place at which, examinations under this section shall be conducted;
 - (b) the form of certificates under this section ;
 - (c) the facilities to be afforded by occupiers of factories for the purpose of examinations under this section, including facilities for an authorized factory doctor to inspect any process in which a young person is to be employed;
 - (d) any other matter which the Minister may consider desirable for the purpose of giving effect to this section.

(9) The Minister may by regulations exempt from the operation of this section any class or description of factory in which mechanical power is not used.

Power of Factory Inspecting Engineer to require certificate of fitness for work.
[§ 32, Law 12 of 1976.]

78. Where a Factory Inspecting Engineer is of opinion that the employment of any young person in a factory or in any particular process or kind of work in a factory is prejudicial to his health or the health of other persons, he may serve written notice thereof on the occupier of the factory requiring that the employment of that young person in the factory or in the process or kind of work, as the case may be, be discontinued after the period named therein not being less than one day nor more than seven days after the service of the notice; and the occupier shall not continue after the period named in the notice to employ that young person, unless the authorized factory doctor has, after the service of the notice personally examined the young person, and certified that he is fit for employment in the factory or in the process or kind or work as the case may be.

Definition of worker.
Gaz. Extry.
No. 14,726/12
of 22.12.1966.

78A. In this Part of this Ordinance, the term "worker" means a person employed in a factory, and includes a woman or young person so employed.

PART VIII

**SPECIAL APPLICATIONS AND EXTENSIONS
PREMISES IN RESPECT OF WHICH OWNER IS LIABLE**

79. (1) Where a part of a building is let off as a separate factory but is not part of a tenement factory—

Parts of buildings
let off as separate
factories.
[§ 33. Law 12 of 1976.]

- (a) the provisions of this Ordinance specified in paragraphs (a) and (b) of subsection (2) of this section shall apply to any part of the buildings used for the purposes of the factory but not comprised therein;
- (b) subject to subsections (4) and (5) of this section, the owner of the building shall be responsible for any contravention of the provisions specified in the said paragraph (a) as so applying; and
- (c) subject to subsection (5) of this section, the owner of the building shall be responsible, instead of the occupier, for any contravention as respects the factory, of the provisions specified in paragraph (c) of subsection (2) of this section.

(2) The said provisions are—

- (a) the provisions of Part II with respect to cleanliness and lighting, and the provisions of Part III with respect to prime moves, transmission machinery, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines, the construction and maintenance floors, passages and stairs and with respect to steam boilers, steam receivers and steam containers, air receivers and gas receivers;
- (b) the provisions of Part III with respect to the power of a Magistrate's Court to make orders as to dangerous conditions and practices or as to safety of factory premises; and
- (c) the provisions of Part II with respect to sanitary conveniences and the provisions of Part III with respect to hoists and lifts.

(3) For the purposes of the provisions applied by the foregoing provisions of this section, lifting machines attached to the outside of the building, and chains, ropes and lifting tackle used in connection with those machines, shall be treated as being in the building, but any lifting machine not used for the purposes of the tackle not use in connection with a lifting machine so used, shall be disregarded.

(4) For any contravention (whether as respects the factory or otherwise) of the provisions of Part III with respect to chains, ropes and lifting tackle, cranes and other lifting machines, steam boilers, steam receive and steam containers, air receives and gas receives—

(a) the occupier of the factory shall be responsible if it is a contravention with respect to any machinery or plant belonging to or supplied by him; and

(b) the owner of the building shall be responsible in any other case;

except that the owner shall not be responsible for a contravention of those provisions in so far as they relate to matters outside his control, and for any such contravention as respects the factory the occupier shall be responsible.

(5) The owner shall be responsible by virtue of this section—

(a) for the clealiness of sanitary conveniences only when used in common by several tenants; and

(b) for a contravention of the provisions relating to hoists and lifts only so far as those provisions relate to matters within his control.

(6) The reference in section 44 of this Ordinance (both as it applies in relation to the factory and as it applies by virtue of the foregoing provisions of this section) to the occupier shall be construed as referring to the occupier of the factory or to the owner of the building according as the one or the other is responsible in respect of the matters complained of.

(7) Any reference in the provisions applied by the foregoing provisions of this section to the general register shall, in relation to matters in respect of which the owner of the building is responsible, be construed as a reference to a register to be kept by him, and subsection (3) of section 119 of this Ordinance shall apply in relation to that register as if the owner were the occupier of the factory.

79A. (1) The owner (whether or not he is one of the occupiers) of a tenement factory shall, instead of the occupier, be responsible for any contravention of the following provisions of this Ordinance, that is to say—

Tenement
factories
[§ 34, Law 12 of
1976.]

- (a) the provisions of Part III with respect to cleanliness, overcrowding ventilation, temperature, lighting, drainage of floors, sanitary conveniences;
- (b) the provisions of Part III with respect to provision and maintenance of fencing and safety appliances, the construction, maintenance, testing and examination of machinery or plant, the construction and maintenance of floors, passages and stairs, and the power of a Magistrate's Court to make orders as to dangerous conditions in factories;
- (c) the provisions of Part IV;
- (d) the provisions of Part V with respect to the removal of dust or fumes and precautions to be taken when asphyxiant or irritant gas or vapour is used or is liable to be present;
- (e) the provisions of Part VI; and
- (f) the provisions of Part X .

(2) For the purpose of the provisions referred to in subsection (1), the whole of a tenement factory shall be deemed to be one factory in the occupation of the owner.

(3) Subsection (1) of this section shall not apply to any contravention arising from the use in a tenement of any fencing, appliances machinery or plant, if the use is a matter outside the control of the owner.

(4) Subsection (1) of this section shall not apply to any contravention in rooms occupied by only one tenant—

(a) of the provisions of Part II with respect to cleanliness, over crowding, temperature, ventilation and lighting ; or

(b) of the provisions of Part V with respect to the removal of dust and fumes;

unless the contravention arises from a failure to carry out any necessary structural work or from any defect in any machinery, plant or fixtures belonging to the owners; and does not apply to a contravention in any such room of the provisions of Part VI.

(5) Subsection (1) of this section shall not apply to a contravention of the provisions of Part IV unless it arises from any such failure or defect as is mentioned in subsection (4) of this section.

(6) The provisions of this Ordinance shall, as far as they are applicable and have not been applied by the foregoing provisions of this section, apply to any part of a tenement factory which is not comprised within any of the separate factories as if that part were a factory and the owner were the occupier thereof.

(7) The Minister may by regulations modify the provisions of this section in their application to any class or descriptions of tenement factory.

ELECTRICAL STATIONS

Application of Ordinance to electrical stations.

80. (1) Subject as hereinafter provided, the provisions of this Ordinance shall apply to any premises in which persons are regularly employed in or in connexion with the processes or operations of generating, transforming or converting, or of switching, controlling or otherwise regulating, electrical energy for supply by way of trade, or for supply for the

purposes of any transport undertaking or other industrial or commercial undertaking or of any public building or public institution, or for supply to streets or other public places, as if the premises were a factory and the employer of any person employed in the premises in or in connexion with any such process or operation were the occupier of a factory :

Provided, however, that the Commissioner or the District Factory Inspecting Engineer for the district may, by order, either—

- (a) exempt any electrical station belonging to the State, or any electrical station operated under a licence granted under the Electricity Act, from the provisions of Part VII so far as those provisions relate to the hours of employment and holidays of any young person or of all young persons employed in such station ; or
- (b) direct that such provisions shall apply to any young person or all young persons so employed as varied by the order.

(2) The provisions of this Ordinance hereinafter in this subsection mentioned shall apply to any other premises in which any such processes or operations as aforesaid are carried on or performed for such supply as aforesaid, being premises large enough to admit the entrance of a person after the machinery or plant therein is in position, as if the premises were a factory and the employer of any person employed in the premises in or in connexion with any such process or operation were the occupier of a factory, that is to say :—

- (a) Part 1; [§3,54 of 1961.]
- (aa) Part III; [§12,23 of 2000.]
- (aaa) the provisions of Part V with respect to precautions to be taken in factories where electricity is generated and to special regulations for safety and health. [§35,12 of 1976.]
- (b) Part VI;
- (c) the provisions of Part XI with respect to powers and duties of Factory Inspecting Engineers, and the regulations of the Minister;
- (d) Part XIII;
- (e) Part XIV;
- (f) Part XV.

(3) The Minister may by special regulations apply any of the provisions of this Ordinance mentioned in the last foregoing subsection to any machinery or plant used elsewhere than in premises mentioned in that subsection or in subsection (1) hereof, being machinery or plant used in the aforesaid processes or operations and for such supply as aforesaid, as if the machinery or plant were machinery or plant in a factory, and the employer of any person employed in connexion with any such use of the machinery or plant were the occupier of a factory.

(4) Subsections (1) and (2) of this section shall not except in so far as the Minister may by special regulations direct, apply to any premises where the aforesaid processes or operations are only carried on or performed for the immediate purpose of working an electric motor or working any apparatus which consumes electrical energy for lighting, heating, transmitting or receiving messages or communications, or other purposes.

(5) For the purposes of the definition in section 126 of the expression "factory", electrical energy shall not be deemed to be an article, but save as aforesaid nothing in this section shall affect the application of this Ordinance to factories within the meaning of that definition.

INSTITUTIONS

81. (1) Where, in any premises forming part of an institution carried on for charitable or reformatory purposes or for technical or vocational training, any manual labour is exercised in or incidental to the making, altering, requiring, ornamenting, finishing, washing, cleaning, or adapting for sale, of article not intended for the use of institution, but the premises do not constitute a factory, then, nevertheless, the provisions of this Ordinance shall subject as hereinafter in this section provided, apply to those premises.

Institution.
[§36,12 of 1976.]

(2) If in any institution carried on for charitable or reformatory purposes, to which this Ordinance applies the persons having the control of the institution (hereinafter referred to as the managers) satisfy the Commissioner that the only persons working therein are persons who are inmates of and

[§ 36, Law 12 of 1976.]

supported by the institution, or persons engaged in the supervision of the work or the management of machinery, and that such work as aforesaid is carried on in good faith for the purposes of the support, education, training, or reformation of persons engaged in it, the Commissioner may by order direct that so long as the order is in force this Ordinance shall apply to the institution subject to the following modifications :—

- (a) The managers may submit for the approval of the Commissioner a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the inmates, and if the Commissioner is satisfied that the provisions of the scheme are not less favourable to the inmates than the corresponding provisions of this Ordinance, the Commissioner may approve the scheme, and upon the scheme being so approved this Ordinance shall, until the approval is revoked, apply as if the provisions of the scheme were substituted for the corresponding provisions of this Ordinance.
- (b) The medical officer of the institution (if any) may, on the application of the managers, be appointed to be the authorized factory doctor for the institution.
- (c) The provisions of Part X as to the posting of an abstract and notices shall not apply, but among the particulars required to be shown in the general register there shall be included such particulars of the scheme as may be prescribed or where no scheme is in force such particulars as may be prescribed as to hours of employment, intervals for meals or rest, and holidays, and other matters dealt with in this Ordinance.
- (d) In the case of premises forming part of an institution carried on for reformatory purposes, if the managers of the institution give notice to the Chief Factory Inspecting Engineer to that effect an Inspecting Engineer or Inspecting Medical Officer shall not, without the consent of the managers or of the persons having charge of the institution under the managers, examine an inmate of the institution save in the presence of one of the managers or of such person as aforesaid:

Provided that the Commissioner, on being satisfied that there is reason to believe that a contravention of the provisions of this Ordinance, or of any regulation or order made thereunder, is taking place in any such institution, may suspend the operation of this paragraph as respects that institution to such extent as he may be consider necessary.

- (e) The managers shall, not later than the fifteenth day of January in every year, sent to the Commissioner a correct return, in such form as may be prescribed, specifying the names of the managers and the name of the persons (if any) having charge of the institution under the managers, and such particulars as to the number, age, sex and employment of the inmates and other persons employed in the work carried on in the institution as may be prescribed, and shall, if they fail to do so, be guilty of an offence and liable to a fine not exceeding two thousand five hundred rupees.

[§12,18of 1998.]

(3) This Ordinance shall not, except in so far as the Commissioner may by order direct, apply to any premises which do not constitute a factory if the premises are subject to inspection by or under the authority of a Government department.

DOCKS, WHARVES, QUAYS, WAREHOUSES AND SHIPS

82. (1) The provisions of this Ordinance hereinafter in this subsection mentioned shall 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 siding used in connexion with and for the purposes of the dock, wharf and quay and not forming part of a railway or tramway) and every other warehouse (not forming part of a factory) in or for the purposes of which mechanical power is used, as if it were a factory and as if the person having

Docks, &c.

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 :—

[§4,54 of 1961.]

(a) Part I;

(aa) the provisions of Part III with respect to steam boilers (including the provisions as to exceptions as to steam boilers) so however, that the owner of the boiler shall, instead of the person deemed to be the occupier, be responsible for any contravention of the said provisions;

(b) the provisions of Part III with respect to the power of the Commissioner to require special safety arrangements for the prevention of accidents and to the power of the Commissioner and the board of appeal to make orders as to dangerous conditions and practices;

(c) the provisions of Part IV with respect to welfare regulations ;

(d) the provisions of Part V with respect to special regulations for safety and health ;

(e) Part VI;

(f) the provisions of Part VIII with respect to premises where part of a building is a separate factory, subject to such modifications as may be made by regulations of the Minister ;

(g) the provisions of Part X with respect to the abstract of this Ordinance and notices, special regulations, general registers (so far as applicable), preservation of registers and records, subject to such modifications as may be made by regulations of the Minister; and the provisions of the said Part X with respect to duties, of persons employed, and with respect to weights, measures and weighing and measuring instruments used in ascertaining wages;

(h) the provisions of Part XI with respect to powers and duties of Factory Inspecting Engineers and to regulations of the Minister;

(i) Part XIII;

(j) Part XV.

(2) Subject as hereinafter in this subsection provided, the provisions of this Ordinance mentioned in paragraph (aa) (subject to the modification mentioned in that paragraph) and in paragraphs (b), (d), (e), (g), (h) and (i) of the foregoing subsection shall apply to the processes of loading, unloading or coaling of any ship in any dock, harbour or canal, and to all machinery or plant used in those processes, as if the processes were carried on in a factory and the machinery or plant were machinery or plant in a factory, and the person who carries on those processes were the occupier of a factory : [§4,54 of 1961.]

Provided that the provisions of this Ordinance mentioned in the said paragraphs (aa) and (b) shall not apply in relation to any such machinery or plant which is on board a ship and is the property of the ship owner. [§ 4, 54 of 1961.]

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

(3) The provisions of Part III with respect to prime movers, transmission machinery, other machinery, provisions as to unfenced machinery, construction and maintenance of fencing, construction and sale of new machinery, cleaning of machinery by women and young persons, training and supervision of young persons working at dangerous machines, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines, construction and maintenance of floors, passages and stairs, and the power of the Commissioner to make orders as to dangerous factories shall apply to every warehouse mentioned in subsection (1) of this section as if the warehouse were a factory and as if the person having the actual use or occupation thereof were the occupier of a factory.

83. (1) Subject as hereinafter in this section provided, the provisions of this Ordinance hereinafter in this section mentioned shall apply to any work carried out in a harbour or wet dock in constructing, reconstructing, repairing, refitting, painting, finishing or breaking up a ship or in scaling, scurving or cleaning Ships.

boilers (including combustion chambers and smoke boxes) in a ship, or in cleaning oil-fuel tanks or bilges in a ship, that is to say ;—

- (a) the provisions of Part IV with respect to welfare regulations;
- (b) the provisions of Part V with respect to special regulations for safety and health ;
- (c) Part VI;
- (d) the provisions of Part VII with respect to hours of employment (but not with respect to the weekly and the annual holidays), subject to such modifications as may be made by regulations of the Minister to meet special circumstances ;
- (e) the provisions of Part X with respect to general registers (so far as applicable), preservation of registers and records, and duties of persons employed ;
- (f) the provisions of Part XI with respect to powers and duties of Factory Inspecting Engineers and to regulations of the Minister;
- (g) Part XIII;
- (h) Part XV ;

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

[§4, 54 of 1961.] (1A) Any person carrying out any work to which subsection (1) applies shall, not later than seven days after the beginning thereof, serve on the District Factory Inspecting Engineer for the district a written notice stating the name and postal address of the person so carrying out the work, the place and nature of the work, whether any mechanical power is used, and, if so, its nature, and such other particulars as may be prescribed.

(2) Nothing in this Ordinance shall apply to any such work as aforesaid done by the master or crew of a ship or done on board a ship during a trial run.

BUILDING AND OTHER CONSTRUCTION WORKS

[§37, Law 12 of 1976.]

84. (1) Subject to the following provisions of this section, the provisions of this Ordinance specified in subsection (2) of this section shall apply to building and other construction works 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 and is not part of a railway or tramway.

Building and other construction works.
[§37, Law 12 of 1976.]

(2) The said provisions are :-

(a) the provision of Part I relating to registration;

[§13, 33 of 2000.]

(b) the provisions of Part II with respect to sanitary conveniences;

(c) the provisions of Part III relating to safety;

[§13, 33 of 2000.]

*(e) the provisions of Part IV with respect to welfare regulations;

(f) the provisions of Part V with respect to special regulations for safety and health;

(g) Part VI;

(h) the provisions of sections 77 and 104 of this Ordinance with such adaptations and modifications as may be made by regulations made by the Minister;

(i) the provisions of Part X with respect to the abstract of this Ordinance and notices, special regulations, general registers (so far as applicable), preservation of registers and records, and duties of persons employed;

(j) Part XI;

(k) Part XIII;

* Paragraph (d) repealed by section 13 of Act No. 33 of 2000.

(l) Part XIV;

(m) Part XV;

(3) No order made under the provisions of this Ordinance with respect to the power of a Magistrate's Court to make orders as to dangerous conditions and practices and no special regulations made under Part V of this Ordinance shall operate so as to interfere with the design of any works of engineering construction or with the adoption in the execution of these work of any method not inconsistent with the safety of the works or of the person employed which is prescribed in the specification or in any signed plans issued, or written directions given, by the consulting engineer or the engineer in charge.

(4) The provisions of this Ordinance in their application to building operations or to works of engineering construction shall have effect as if any place where such operations or works are carried on were a factory and any person undertaking any such operations or works to which this Ordinance applies were the occupier of a factory, and with such other adaptations and modifications as may be made by regulations made by the Minister.

(5) The provisions of this Ordinance requiring general registers to be kept and copies of the prescribed abstract of this Ordinance and of special regulations or the prescribed abstract of such regulations to be kept posted up on the premises shall be deemed to be complied with as respects building operations or works of engineering construction if the register is kept at an office of the person undertaking the operations or works and copies of the abstract of this Ordinance and of the regulations or abstract thereof are kept posted up at each office, yard or shop of the person undertaking the operation or works at which persons employed by him on the operations or works attend, and in a position where they can easily be read by those persons.

(6) Subject to subsection (7) of this section, any person undertaking any building operations or works of engineering construction to which this Ordinance applies shall, not later than seven days after the beginning thereof, serve on the District Factory Inspecting Engineer a written notice stating the name and postal address of that person, the place and nature of the

operations or works, whether any mechanical power is used and, if so, its nature, the name of the local authority within whose administrative limits the operations or works are situated and such other particulars as may be prescribed.

(7) Subsection (6) of this section shall not apply to any operations or works which the person undertaking them has reasonable grounds for believing will be completed in a period of less than six weeks, except in such cases as the Chief Factory Inspecting Engineer may direct; and where a person undertakes any building operations or works of engineering construction in a place where such operations or works, as the case may be, are in progress, he shall not be required to give notice under that subsection if such a notice was given in respect of the operations or works in progress.

(8) The application of this Ordinance to any building operations or works of engineering construction by virtue of the foregoing provisions of this section shall not be excluded by reason of the fact that they are undertaken on premises to which this Ordinance applies apart from those provisions; and nothing in this section shall be taken as prejudicing the application of this Ordinance to those premises apart from this section.

LEAD PROCESSES CARRIED ON IN PLACES OTHER
THAN FACTORIES

86*. The following provisions of this Ordinance, that is to say :-

- (a) the provisions relating to the employment of women and young 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 Factory Inspecting Engineer, or to the District Factory Inspecting Engineer for the district, of lead poisoning contracted or occurring in factories; and

Employment of women and young persons in places other than factories in processes connected with lead manufacture or involving the use of lead Compounds.

* Section 85 has been repealed by Law No. 12 of 1976.

- (c) any provision relating to powers and duties of Factory Inspecting Engineers and to offences, penalties and legal proceedings,

shall apply to employment in any such processes as aforesaid in any place other than a factory, as if the place were a factory and the employer were the occupier of the factory and as if the references to young persons included references to all persons who had not attained the age of eighteen.

PART IX

HOME WORK

87. (1) In the case of persons employed in such classes of work as may from time to time be specified by regulations of the Minister, the occupier of every factory and every contractor employed by any such occupier in the business of the factory shall—

Lists of outworkers to be kept in certain trades.

- (a) keep, in such form and manner and with such particulars as may be prescribed, lists showing the names and addresses of all persons (hereinafter referred to as outworkers) directly employed by him, either as workmen or as contractors, in the business of the factory, outside the factory, and of the places where they are employed; and

(b) send to Factory Inspecting Engineer such copies of or extracts from those lists as the Factory Inspecting Engineer may from time to time require, and during the month of February and the month of August in each year copies of those lists, showing all out-workers so employed by him during the preceding six months.

(2) The lists kept by the occupier or contractor shall be open to inspection by any Factory Inspecting Engineer, and by any officer duly authorized by the Minister, and the copies sent to the Factory Inspecting Engineer shall be open to inspection by any Factory Inspecting Engineer or officer of any Government department.

(3) This section shall apply to any place from which any work is given out in connexion with the business of a factory (whether the materials for the work are supplied by the occupier or not), and to the occupier of that place, and to every contractor employed by the occupier in connexion with the said work, as if that place were a factory.

(4) In the event of a contravention of this section by the occupier of a factory or place, or by a contractor, the occupier or contractor shall be guilty of an offence and liable to a fine not exceeding five thousand rupees.

[§13,18 of 1998.]

Employment of persons in unwholesome premises.

88. (1) Where work in respect of which this section applies is carried on for the purpose of or in connexion with the business of a factory in any place which is in the opinion of a Factory Inspecting Engineer may give notice in writing to the occupier of the factory or to any contractor employed by him setting forth particulars of the respects in which the place is, in his opinion, so injurious or dangerous, and the reasons for that opinion, and may by order in writing prohibit the giving out of work to be done in that place.

(2) The occupier of any factory or any contractor who is aggrieved by any order made under subsection (1) may prefer an appeal, within twenty-one days of the order, to the board of appeal, and the order shall be deemed to be suspended pending the final determination of the appeal.

(3) For the purpose of this section, any place from which work is given out shall be deemed to be a factory.

(4) This section shall apply in respect of such classes of work as may be specified in regulations made by the Minister.

PARTX

MISCELLANEOUS

89. The occupier of a factory shall not commence to use mechanical power in such factory unless he has, at least one month before the date on which it is intended to commence the use of such power in such factory, served a written notice on the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer for the district stating the nature of such power and specifying such date:

Notice of use of mechanical power.
[§6,54 of 1961.]

Provided that such occupier may, after serving such notice, commence to use such power in such factory on a date earlier than that specified in such notice if he has obtained written permission to do so from the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer for the district.

90. (1) There shall be kept posted at the principal entrances of a factory at which employed persons enter -

Posting of abstract of Ordinance and notices.

- (a) the prescribed abstract of this Ordinance; and
- (b) a notice of the address of the District Factory Inspecting Engineer for the district and of the Chief Factory Inspecting Engineer; and
- (c) a notice of the name and address of the authorized factory doctor for the factory; and
- (d) a notice specifying the clock (if any) by which the period of employment and intervals for meals and rest in the factory are regulated; and
- (e) every notice and document required by this Ordinance to be posted in the factory:

[§39, Law 12 of 1976.]

Provided that a Factory Inspecting Engineer may direct that all or any of the aforesaid documents shall be posted in such parts of the factory, either in addition to or in substitution for the said principal entrances, as he may direct.

(2) All such documents shall be posted in such characters and in such positions as to be conveniently read by the persons employed in the factory and, if a form has been prescribed for any document, it shall be posted in that form.

[§14,18 of 1998.] (3) If any person pulls down, injures or defaces any abstract, notice, regulations or other document posted in pursuance of this Ordinance, he shall be guilty of an offence and liable to a fine not exceeding two thousand five hundred rupees.

Provisions as to special regulations.

91. (1) Printed copies of all special regulations for the time being in force in any factory or the prescribed abstract of such regulations shall be kept posted in the factory in such characters and in such positions as to be conveniently read by the persons employed in the factory.

(2) A printed copy of all such regulations shall be given by the occupier to any person affected thereby on his application.

General registers.

92. (1) There shall be kept in every factory, or in such place outside the factory as may be approved by the District Factory Inspecting Engineer for the district, a register, called the general register, substantially in such form as may be prescribed, and there shall be entered in or attached to that register-

- (a) such particulars as may be prescribed as to the young persons employed in the factory; and
- (b) such particulars as may be prescribed as to the washing, whitewashing or colour washing, painting or varnishing, of the factory ; and
- (c) such particulars as may be prescribed as to every accident and case of industrial disease occurring in the factory of which notice is required to be sent to a factory inspecting Engineer ; and
- (d) particulars showing every special exception of which the occupier of the factory avails himself ; and

(e) all reports and particulars required by any other provision of this Ordinance to be entered in or attached to the general register; and

(f) such other matters as may be prescribed.

(2) There shall be attached to the general register a copy of the certificate of the Factory Inspecting Engineer relating to means of escape in the case of fire.

(3) The occupier of a factory shall send to a Factory Inspecting Engineer such extracts from the general register as the Factory Inspecting Engineer may from time to time require for the purpose of the execution of his duties under this Ordinance.

Preservation of registers and records.
[§ 40, Law 12 of 1976.]

93. The general register and every other register or record kept in pursuance of this Ordinance shall be preserved and shall be kept available for inspection by any Factory Inspecting Engineer or by the authorized factory doctor for at least two years, or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the register or record.

Periodical return of persons employed.

94. (1) The occupier of every factory shall, at intervals of not less than one year, on or before such days as the Commissioner may direct, send to the Chief Factory Inspecting Engineer a correct return specifying, with respect to such day or days, or such period as the Commissioner direct, the number of persons employed in the factory, and giving such particulars as may be prescribed, as to the hours of employment of women and young persons employed, as to the age, sex, and occupation of all persons employed, and as to such other matters, if any, as the Commissioner may direct.

[§ 41, Law 12 of 1976.]

(1A) Every direction by the Commissioner under subsection (1), shall be given by publication in the Gazette and in one Sinhala, one Tamil and one English newspaper.

(2) The occupier of any place to which any of the provisions of this Ordinance apply shall, if so required by the Commissioner, make a like return to the Chief Factory Inspecting Engineer.

(3) The Commissioner may, for the purpose of facilitating the rendering of the returns under this section by occupiers, arrange for the consolidation of those returns with any other returns which any Government department is empowered to call for from occupiers.

Duties of persons employed.

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

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

Prohibition of deductions from wages. [§ 7, 22 of 1946.]

96. Save as otherwise expressly provided under this Ordinance, the occupier of a factory shall not in respect of anything to be done or provided by him in pursuance of this Ordinance, make any deduction from the sum contracted to be paid by him to any person employed or receive or allow any person in his employment to receive any payment from any such person,

Weights, measures and weighing and measuring instruments used in ascertaining wages.

97. (1) All the provisions of law, for the time being in force in Sri Lanka relating to weights and measures or weighing or measuring instruments shall extend to weights, measures, and weighing instruments used in a factory for the purpose of checking or ascertaining the wages of any person employed therein, in like manner as if they were used for trade, and the power of the Minister to make regulations under the Weights and Measures Ordinance, shall include power to extend any such provisions to such measuring instruments used in factories for the purposes aforesaid as may be specified in the regulations.

(2) Every inspector or other person authorized under the law for the time being relating to weights and measures or weighing or measuring instruments to inspect or examine weights and measures shall inspect, stamp, mark, search for, and examine the

weights and measures and weighing and measuring instruments to which such law is extended by or under this section, and for that purpose shall have the same powers and duties as he has with respect to weights, measures and instruments used for trade.

**PART XI
ADMINISTRATION**

98. (1) The Commissioner of Labour shall be the officer in charge of the administration of this Ordinance.

Administration of the Ordinance. [§ 7, Law 54 of 1961.]

(2) Subject to any general or special directions of the Commissioner, any Deputy or Assistant Commissioner of Labour, the Chief Factory Inspecting Engineer, the Deputy Chief Factory Inspecting Engineer, a Specialist Factory Inspecting Engineer, a Specialist Inspecting Medical Officer, a Specialist District Factory Inspecting Engineer, a Factory Inspecting Engineer or an Inspecting Medical Officer may exercise, perform or discharge any power, duty or function of the Commissioner under this Ordinance or under any regulation made thereunder.

[§ 42, Law 12 of 1976.]

99. (1) There shall be an Industrial Safety and Health Advisory Committee consisting of-

Industrial Safety and Health Advisory Committee. [§ 43, Law 12 of 1976.]

- (a) the Chief Factory Inspecting Engineer, who shall be chairman; and
- (b) four other members to be appointed by the Minister, of whom at least one member shall -
 - (i) represent the interests of the occupiers of factories,
 - (ii) represent the interests of the persons employed in factories, and
 - (iii) be a specialist in the field of industrial safety and health.

(2) It shall be the duty of the Industrial Safety and Health Advisory Committee -

- (a) to advise the Commissioner on all matters incidental or relating to the safety, health and welfare of workers

in factories and all other matters which the Commissioner may refer to the Committee;

(b) to advise the Minister on all matters which the Minister may refer to the Committee;

(c) to perform and exercise such duties and powers as may be prescribed by or under this Ordinance.

(3) Regulations may be made for or in respect of -

(a) the term of office of members of the Committee appointed under paragraph (b) of subsection (1) and the manner in which any casual or other vacancy occurring among such members shall be filled;

(b) the manner in which meetings of the Committee shall be convened, the conduct of business by the Committee and the procedure to be followed at meetings of the Committee;

(c) the fees payable to members appointed under paragraph (b) of subsection (1).

(4) Subject to any regulations that may be made, the Committee may regulate its own procedure.

(5) Wherever the Minister thinks it necessary to do so, he may by Order published in the Gazette appoint a committee consisting of such persons specified in the Order to report to him on such matters as may be specified therein.

Appointment of
Chief Factory
Inspecting
Engineer and other
officers.
[§44, Law 12 of
1976.]

100. There may be appointed for the purposes of this Ordinance -

(a) a person by name or by office to be or to act as Chief Factory Inspecting Engineer;

(b) a person by name or by office to be or to act as Deputy Chief Factory Inspecting Engineer;

(c) such number of persons, by name or by office, to be or to act as Specialist Factory Inspecting Engineers as may be deemed necessary;

- (d) such number of persons, by name or by office, to be or to act as Specialist Inspecting Medical Officers as may be deemed necessary;
- (e) such number of persons, by name or by office, to be or to act as District Factory Inspecting Engineers as may be deemed necessary;
- (f) such number of persons, by name or by office, to be or to act as Factory Inspecting Engineers as may be deemed necessary; and
- (g) such number of persons, by name or by office, to be or to act as Inspecting Medical Officers as may be deemed necessary.

101. (1) The Commissioner, Chief Factory Inspecting Engineer, the Deputy Chief Factory Inspecting Engineer, a Specialist Factory Inspecting Engineer, a Specialist Inspecting Medical Officer, District Factory Inspecting Engineer, a Factory Inspecting Engineer, an Inspecting Medical Officer, and any qualified engineer or medical practitioner who is in the service of the Government and is authorised in this behalf by the Commissioner shall, for the purpose of the execution of this Ordinance, have power to do all or any of the following things, that is to say:-

Powers of
Chief Factory
Inspecting
Engineer and
other officers
[§ 45, 12 of 1976.]

- (a) to enter, inspect and examine by day or night any premises --
 - (i) to which he has reasonable cause to believe this Ordinance applies;
 - (ii) which is stated in a notice under section 4 to be intended to be used as a factory;
 - (iii) which is adjacent to any premises referred to in sub-paragraphs (i) and (ii) and in which he has reasonable cause to believe there are stored explosive or inflammable materials or other substances which would expose the persons employed in the premises referred to in sub-paragraph (i) or (ii) to risk or injury;

- (iv) to which this Ordinance does not apply but in which health or welfare facilities are provided by the occupier of any premises referred to in sub-paragraph (i) or (ii);
- (b) to enter any area of any premises or building which is or forms part of the access to any premises referred to in sub-paragraph (i) or (ii) of paragraph (a);
- (c) to take with him one or more police officers if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
- (d) to make any complaint or application to any Magistrate's Court under section 44 or section 44A and to appear in support of such complaint or application ;
- (e) to require the production of the registers, certificates, notices, and documents kept in pursuance of this ordinance or any other enactment and to inspect, examine and copy any of them;
- (f) to require the production of factory plans and drawings and circuit or wiring diagrams pertaining to machinery;
- (g) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Ordinance and the enactments for the time being in force relating to public health are complied with, so far as respects a factory and any person employed in a factory;
- (h) to require any person whom he finds in a factory to give such information as it is in his power to give as to who is the occupier of the factory;
- (i) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Ordinance, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or employed in the business of a factory wholly or mainly outside the factory and to

require every such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined; so, however, that no one shall be required under this provision to answer any question or to give any evidence tending to incriminate himself;

(j) in the case of a qualified medical practitioner referred to in this section to carry out such medical examination as may be necessary for the purposes of his duties under this Ordinance;

(k) to exercise such other powers as may be necessary for carrying out this Ordinance into effect.

(2) The occupier of every factory, his agents and servants, shall furnish the means required by any officer referred to in subsection (1) as necessary for an entry, inspection, examination, inquiry, the taking of samples, or otherwise for the exercise of his powers under this Ordinance in relation to that factory.

(2A) A person who has served a notice under section 4, his agents and servants, shall furnish the means required by any officer referred to in subsection (1) as necessary for entering, inspecting or examining the premises stated in that notice to be intended to be used a factory.

[§8,54 of 1961.]

(3) If any person wilfully delays any officer referred to in subsection (1) in the exercise of any power under this section, or fails to comply with the requisition of such officer in pursuance of this section, or to produce any register, certificate, notice or document which he is required by or in pursuance of this Ordinance to produce, or wilfully withholds any information as to who is the occupier of any factory, or conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by such officer, that person shall be deemed to obstruct such officer in the execution of his duties under this Ordinance.

(4) Where any officer referred to in subsection (1) is obstructed in the execution of his powers or duties under this Ordinance, the person obstructing him shall be guilty of an offence, and liable to a fine not exceeding two thousand five hundred rupees; and where such officer is so obstructed in a factory, the occupier of that factory shall be guilty of an offence.

[§15,18 of 1998.]

(5) Any certificate issued by a Chief Factory Inspecting Engineer, or a District Factory Inspecting Engineer for a district may be issued for a limited period or without limit of period and may be varied or revoked by him or his successor in office.

Powers, &c. of factory inspecting Engineer to be exercised by other officer in certain cases.

102. The Minister may, by Order published in the Gazette, declare that any power, duty or function conferred or imposed upon or assigned to a Factory Inspecting Engineer by any specified provision of this Ordinance shall be exercised, performed or discharged, as respects any specified district, by such officer (other than a Factory Inspecting Engineer) as may be designated for the purpose in the Order; and, upon the publication of any such Order, any provision of this Ordinance specified in the Order shall have effect as if for any reference in that provision to a Factory Inspecting Engineer there were substituted a reference to such officer (other than a Factory Inspecting Engineer) as may be designated in the Order.

Certificate of person appointed under section 100.
[§ 46, Law 12 of 1976.]

103. Every person appointed under section 100 shall be furnished with such certificate of his appointment as may be prescribed, and when visiting a factory or place which he has power under this Ordinance to enter shall, if so required, produce the said certificate to the occupier or other person holding a responsible position of management at the factory or place.

Appointment and duties of authorized factory doctor.
[§47, Law 12 of 1976.]

104. (1) Subject to any general directions of the Commissioner, the Chief Factory Inspecting Engineer may appoint a sufficient number of registered medical practitioners to be authorized factory doctors for any of the purposes of this Ordinance, and may revoke any such appointment.

(2) Every appointment and revocation of appointment of an authorized factory doctor may be annulled by the Commissioner upon appeal to him for that purpose.

(3) A registered medical practitioner who is the occupier of a factory, or is directly or indirectly interested therein, or in any process or business carried on therein, or in a patent connected therewith shall not act as authorized factory doctor for that factory:

Provided that the Commissioner may authorize a registered medical practitioner who is employed by the occupier of the factory, in connection with the medical supervision of persons employed in the factory, but is not otherwise interested in the factory, to act as authorized factory doctor for that factory for the purpose of examining and certifying the fitness of young persons.

(4) The authorized factory doctor for any factory shall have power at all reasonable times to inspect the general register of that factory.

(5) The Minister may make regulations as to the duties of authorized factory doctors.

(6) An authorized factory doctor shall, if so directed by the Commissioner, make such special inquiry and examination of employed persons as may be directed.

(7) Every authorized factory doctor shall in each year make a report, at such time and in such form as may be prescribed, to the Commissioner as to examinations made and other duties performed by him in pursuance of this Ordinance.

(8) If and so long as there is no authorized factory doctor for any factory, the District Medical Officer appointed for the district in which the factory is situated shall act as the authorized factory doctor for that factory.

(9) The fees to be paid to authorized factory doctors for carrying out their duties under this Ordinance shall, so far as they relate to any examination or certificate with respect to the fitness of a young person for employment in a factory or to any examination or medical supervision of persons employed in a factory carried out in pursuance of regulations or an order under this Ordinance, be paid by the occupier of that factory, and in any other case shall be defrayed out of the Consolidated Fund, and the fees shall, subject to any agreement between the authorized factory doctor and the occupier of a factory as respects the fees payable by the occupier, be of such amount as may be prescribed by regulations made by the Minister.

Regulations.
[§8,22 of 1946.]

105. (1) The Minister may make regulations for or in respect of all matters stated or required by this Ordinance to be prescribed and all matters for which regulation or special regulations are required or authorized by this Ordinance to be made, and all such other regulations as to the Minister may seem necessary for carrying out the provisions of this Ordinance or giving effect to the principles thereof.

(2) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

(3) Every regulation made by the Minister and approved by Parliament shall, upon the notification in the Gazette of such approval, be as valid and effectual as if it were herein enacted.

***PART XIII**

SUPPLEMENTARY

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

Liability of
occupier, owner,
employed person,
&c. of a factory.

108. (1) In the event of any contravention, in or in connexion with or in relation to a factory, of the provisions of this Ordinance or of any regulation or order made or direction issued thereunder, the occupier, or (if the contravention is one in respect of which the owner is by or under this Ordinance made responsible) the owner of the factory shall subject as hereinafter in this Ordinance provided, be guilty of an offence.

(2) In the event of any contravention by an employed person of the provisions of Part X with respect to duties of persons employed or of a contravention by any person of any regulation or order made under this Ordinance which expressly imposes any duty upon him, that person shall be guilty of an offence and the occupier or owner, as the case may be, shall not be guilty of an offence in respect of that contravention unless it is proved that he failed to take all reasonable steps to prevent the contravention.

(3) If the occupier of a factory avails himself of any special exception allowed by or under this Ordinance and fails to comply with any of the conditions attached to the exception, he shall be deemed to have contravened the provisions of this Ordinance.

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

* Part XII (sections 106 and 107) repealed by section 48 of Law No. 12 of 1976.

(5) Where an offence under this ordinance committed by a company is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of the company, he, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

109. (1) Subject as hereinafter provided, any person guilty of an offence under this Ordinance for which no express penalty is provided shall be liable -

- (a) in the case of a first offence, to a fine not less than five thousand rupees;
- (b) in the case of a second offence (not being an offence in respect of a continuation of an offence referred to in subsection (2)), to a fine not less than five thousand rupees but not exceeding twelve thousand five hundred rupees ;
- (c) in the case of a third or subsequent offence (not being an offence in respect of a continuation of an offence referred to in subsection (2)), to a fine exceeding twelve thousand five hundred rupees but not exceeding twenty-five thousand rupees.

Fines for offences for which no express penalty is provided. [§ 16, 18 of 1998,]

(2) Where any person convicted of an offence and punished under subsection (1) continues the contravention in respect of which he was so convicted and punished he shall, (subject to the provisions of section 110) be guilty of a further offence and liable in respect thereof to a fine not exceeding five hundred rupees for each day on which such contravention was so continued.

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

Power of court to order cause of contravention to be remedied,

[§17, 18 of 1998.] occupier or owner, as the case may be, shall be liable to fine not exceeding five hundred rupees for each day on which the non-compliance continues.

Fines in case of death or injury.

[§18.18 of 1998.]

11. If any person is killed, or dies, or suffers any bodily injury, in consequence of the occupier or owner of a factory having contravened any provision of this Ordinance or of any regulation or order made thereunder, the occupier or owner of the factory shall, without prejudice to any other penalty, be liable to a fine not exceeding one hundred thousand rupees; and subject to the provisions of subsections (4) to (9) of section 17 of the Code of Criminal Procedure Act, No. 15 of 1979, the whole or any part of the fine may be applied for the benefit of the injured person or his family or otherwise as may be prescribed by regulations made by the Minister:

Provide that -

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

Fine for offence by parent.

[§19, 18 of 1998.]

12. If a young person is employed in any factory in contravention of the provisions of this Ordinance, the parent of the young person shall be guilty of an offence and liable to a fine not exceeding five hundred rupees, unless it appears to the court that the contravention occurred without the consent, connivance, or wilful default of the parent.

Forgery of certificates, false entries, and false declarations.

13. If any person -

- (a) forges or counterfeits any certificate required by, under, or for the purposes of, this Ordinance or any order or regulation made thereunder;
- (b) gives or signs any such certificate knowing it to be false in any material particular;

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

he shall, without prejudice to any other penalty, be guilty of an offence under this Ordinance, and liable to a fine not exceeding fifty thousand rupees, or to, imprisonment of either description for a term not exceeding six months. [§20, 18 of 1998.]

114. Where an act or default for which an occupier or owner is liable under this Ordinance is in fact the act or default of some agent, servant, worker or other person, that agent, servant, worker or other person shall be guilty of an offence and liable to the like fine as he if he were the occupier or owner, as the case may be. Penalty on persons actually committing offence for which occupier is liable.

115. (1) Where the occupier or owner of a factory is charged with an offence under this Ordinance, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person whom he charges as the actual offender. Power of occupier or owner to exempt himself from liability on conviction of 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 this Ordinance and of any relevant order or regulation made thereunder; and
- (b) that the said other person had committed the offence in question without his consent, connivance, or wilful default,

that other person may after summary trial be convicted of the offence, and the occupier or owner shall not be guilty of the offence.

The prosecution shall have the right in any such case to cross-examine the occupier or owner if he gives evidence and any witnesses called by him in support of his charge, and to call rebutting evidence.

(2) When it is made to appear to the satisfaction of an inspector at the time of discovering an offence—

- (a) that the occupier or owner (as the case may be) of the factory has used all due diligence to enforce the execution of this Ordinance ; and
- (b) that the offence has been committed by some other specified person ; and
- (c) that it has been committed without the consent, connivance or wilful default of the occupier or owner and in contravention of his orders,

the Factory Inspecting Engineer shall proceed against the person whom he believes or who is stated to be the actual offender without first proceeding against the occupier or owner of the factory.

Proceedings
against
persons other
than
occupiers or
owners.

116. Where, under this Ordinance, any person, is substituted for the occupier or owner with respect to any provisions of this Ordinance, any order, summons, notice, or proceeding, which for the purpose of any of those provisions is by or under this Ordinance required or authorized to be served on or taken in relation to

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

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

Owner of machine liable in certain cases instead of occupier.

118. (1) offences under this Ordinance shall be triable summarily by a Magistrate.

Prosecution of offences and recovery and application of fines.

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

(3) Where, with respect to or in consequence of any accident in a factory, a report is made by any person or persons appointed to hold a formal investigation under this Ordinance or an investigation is held under Chapter XI of the Code of Criminal Procedure Act, No. 15 of 1979, and it appears from the report, or from the proceedings at the investigation, that any of the provisions of this Ordinance, or any orders or regulations made thereunder, were not complied with at or before the time of the accident, summary proceedings against any person liable to be proceeded against in respect of such non-compliance may be commenced at any time within three months after the making of the report or the conclusion of the investigation.

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

(5) All fines imposed and recovered under this Ordinance shall, save as otherwise expressly provided for by this Ordinance, be paid into the Consolidated Fund.

Special provisions as to evidence.

119. (1) If a person is found in a factory at any time at which work is going on or the machinery is in motion, except during the intervals for meals or rest, he shall, until the contrary is proved, be deemed for the purposes of this Ordinance to have been then employed in the factory.

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

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

[§ 50, Law 12 of 1976.]

(4) The burden of proving that any examination required by section 27, 28, 29, 34, 35, 36, 36A, 38 or 42A has been carried out in accordance with the provisions of that section shall be on the occupier of the factory.

Service and sending of documents, &c.

120. Any document (including any summons or order) required or authorized to be served under this Ordinance may be served—

- (a) on any person by delivering it to him, or by leaving it at, or sending it by post to, his residence ;
- (b) on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by post to, the office of the firm ;
- (c) on the owner or occupier of a factory (including any such owner or occupier being a company to which the *Companies Ordinance applies)

* Repealed and replaced by the Companies Act, No. 17 of 1982.

in any such manner as aforesaid, or by delivering it, or a true copy thereof, to any person apparently not under the age of sixteen years at the factory.

(2) Any such document may be addressed, for the purpose of the service thereof on the occupier of a factory, to " the occupier" at the proper postal address of the factory, without further name or description.

(3) The foregoing provisions of this section shall apply with the necessary modifications to documents required or authorized under this Ordinance to be sent to any person, firm, owner or occupier, and to the sending, addressing, and delivery of such documents.

122 * If by reason of an agreement between the owner and the occupier of premises the whole or any part of which has been let as a factory the said owner or occupier is prevented from carrying out any structural or other alterations in the premises which are necessary to enable him to comply with the provisions of this Ordinance or of any regulation or order made under this Ordinance or in order to conform with any standard or requirement imposed by or under this Ordinance, he may apply by way of petition to the District Court having jurisdiction over the area in which the premises are situate, and the court, after hearing the parties and any witnesses whom they desire to call, may make such order,

Power of District Court to modify agreements.

* Section 121 has been repealed by section 51 of Law No. 12 of 1976.

setting aside or modifying the terms of the agreement, as the court considers just and equitable in the circumstances of the case.

Power of District Court to apportion expenses.

123. Where in any premises the whole or any part of which has been let as a factory any structural or other alterations are required in order to comply with the provisions of this Ordinance or of any regulation or order made under this Ordinance or in order to conform with any standard or requirement imposed by or under this Ordinance, 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 by way of petition to the District Court having jurisdiction over the area in which the premises are situate, and the court after hearing the parties and any witnesses whom they desire to call, may make such order concerning the expenses or their apportionment as the court considers just and equitable in the circumstances of the case, regard being had to the terms of any contract between the parties, or in the alternative the court may at the request of the owner or occupier determine the lease.

PART XIV

APPLICATION OF ORDINANCE

General application of Ordinance.

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

Application to factories belonging to the State. [§52, Law 12 of 1976.]

125. (1) Subject as hereinafter provided, the provisions of this Ordinance shall apply to factories belonging to or in the occupation of the State and to building and other construction works undertaken by or on behalf of the State:

Provided that such provisions shall not, during any war in which the State may be engaged, apply to any factory in the occupation of any of the forces of the State or to any building or other construction works undertaken by any of the forces of the State ;

Provided, further, that the Minister may by Order exempt from this Ordinance, either wholly or to such extent or during such period as may be specified in the Order, any factory belonging to the State or any building or other construction works undertaken by or on behalf of the State or any factory in respect of work which is being done on behalf of the State.

(2) In this section, "forces of the State" include the Sri Lanka Army, Sri Lanka Naval Force and the Sri Lanka Air Force.

PART XV

INTERPRETATION AND GENERAL

INTERPRETATION

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

Interpretation of expression "factory".

- (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; or
- (d) the slaughter of cattle, sheep, swine, goats, horses, asses or mules; or
- (e) the confinement of the aforesaid animals while awaiting slaughter at other premises;

[§ 53, Law 12 of 1976.]

[§53, Law 12 of 1976.]

[§ 53, Law 12 of 1976.]

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

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

- (i) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up ;
- (ii) any premises in which the business of sorting any articles is carried on as a preliminary to the work carried on in any factory or incidentally to the purposes of any factory ;
- (iii) any premises in which the business of washing or filling bottles or containers or packing articles is carried on incidentally to the purposes of any factory ;
- (iv) any premises in which the business of hooking, plaiting, lapping, making-up or packing of yarn or cloth is carried on;
- (v) any laundry carried on as ancillary to another business, or incidentally to the purposes of any public institution;
- [§ 53, Law 12 of 1976.] (vi) any premises in which the construction, reconstruction, lubrication or repair of locomotives, vehicles or other plant for use for transport purposes is carried on not being any premises used for the purpose of housing locomotives or vehicles where only cleaning or washing is carried out;
- (vii) any premises in which printing by letterpress, lithography, photogravure, or other similar process, or bookbinding is carried on by way of trade or for purposes of gain or incidentally to another business so carried on;
- (viii) any premises in which the making, adaptation or repair of dresses, scenery or properties is carried on incidentally to the production, exhibition or presentation by way of trade or for purposes of gain of cinematograph films

or theatrical performances, not being a stage or dressing-room of a theatre in which only occasional adaptations or repairs are made ;

- (ix) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry conducted by any company or other commercial undertaking;
- (x) any premises in which mechanical power is used in connexion 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 ;
- (xi) 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 ;
- (xii) any premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction, not being premises in which such operations or works are being carried on ;
- (xiii) any premises used for the storage of gas in a gasholder having a storage capacity of not less than five thousand cubic feet.

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

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

(4) Any workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would constitute the workplace a factory if the persons working

therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Ordinance, and, in the case of any such workplace the provisions of this Ordinance shall apply as if the owner or occupier of the workplace were the occupier of the factory and the persons working therein were persons employed in the factory.

(5) No premises in or adjacent to and 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.

(6) Where a place situate 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 Ordinance, but shall, if otherwise it would be a factory, be deemed to be a separate factory.

(7) No premises shall be deemed to be excluded from the definition of a factory by reason only that they are open air premises.

(8) Where the Minister by regulations so directs as respects all or any purposes of this Ordinance, different branches or departments of work carried on in the same factory shall be deemed to be different factories.

(9) Any premises belonging to or in the occupation of the State or any municipal or other local or public authority shall not be deemed not to be a factory, and building operations or works of engineering construction undertaken by or on behalf of the State or any such authority shall not be excluded from the operation of this Ordinance, by reason only that the work carried on thereat is not carried on by way of trade or for purposes of gain.

(10) Where the only persons employed in any premises are members of the family of the occupier of those premises, those premises shall, notwithstanding anything in the preceding provisions of this section, be deemed not to be a factory for the purposes of this Ordinance.

(11) Where within the premises of any shop any work is done or any process is carried on which, under the preceding provisions of this section, constitutes those premises a factory, then, notwithstanding anything in such provisions—

- (a) the Commissioner may, by order in writing, define the part or parts of those premises which shall be taken to be a factory or factories for the purposes of this Ordinance, and, upon the making of such order, no part of those premises other than a part so defined shall for the purposes of this Ordinance, be deemed to be a factory ;
- (b) the Commissioner may, if having regard to all the circumstances of the case he considers it expedient so to do by order in writing, declare that those premises shall not be taken to be a factory for the purposes of this Ordinance, and, upon the making of such order those premises shall not, for the purposes of this Ordinance, be deemed to be a factory.

127. (1) In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

General interpretation.

"appointed date" means the 1st day of January, 1950;

"bakehouse" means any place in which bread, biscuits or confectionery is or are baked by way of trade or for purposes of gain;

"bodily injury" includes injury to health;

"building and other construction work" means the construction, erection, structural alteration, repair or maintenance (including excavation, painting, decorating, glazing, pointing and external cleaning of the structure), the demolition or dismantling of a building or other structure, the preparation for, and laying the foundation of, an intended building or other structure, and all operations in connection therewith; the

[§54, 12 of 1976.]

construction of any railway line or siding and the construction, structural alteration or repair (including excavation, pointing and painting) or the demolition of any subway, tunnel, trench, caissons, conduit, pipe line, road, wharf, dock, harbour, inland navigation, bridge, culvert, viaduct, water-works, reservoir, aqueduct, sewer, sewage work, gasholder, trestle, pier, abutment, and all operations pertaining thereto, or any other construction, alteration, repair or removal work carried on in, about or over water and shall include such other works as may be specified by regulations made by the Minister;

*"calendar year" means the period of twelve months beginning with the first day of January in any year;

[§ 54, Law 12 of 1976.]

"Chief Factory Inspecting Engineer" means the Chief Factory Inspecting Engineer appointed under section 100;

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

[§9,54 of 1961.]

"Commissioner", means the Commissioner of Labour;

"contravention" includes, in relation to any provision, a failure to comply with that provision, and the expression " contravene" shall be construed accordingly;

"cotton cloth factory" means any room, shed or workshop, or part thereof, in which the weaving of cotton cloth is carried on;

"degrees" means degrees Fahrenheit;

[§ 54, Law 12 of 1976.]

"Deputy Chief Factory Inspecting Engineer" means the Deputy Chief Factory Inspecting Engineer appointed under section 100;

* See section 55 of Law No. 12 of 1976.

* "District Factory Inspecting Engineer" means the District Factory Inspecting Engineer appointed under section 100; [§ 54, Law 12 of 1976.]

"driving-belt" includes any driving strap or rope;

* "Factory Inspecting Engineer" means a Factory Inspecting Engineer appointed under section 100; [§ 54, Law 12 of 1976.]

"fume" includes gas or vapour"

"general register" means the register kept in accordance with the requirements of section 92;

" Inspecting Medical Officer" means an Inspecting Medical Officer appointed under section 100; [§ 54, Law 12 of 1976.]

"local authority" means any Municipal Council, Urban Council or Pradeshiya Sabha; [§ 54, Law 12 of 1976.]

"machinery" includes any driving-belt;

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

"notified date" means such date as may be fixed for the purpose of this Ordinance by the Minister by publication in the Gazette; [§ 54, Law 12 of 1976.]

"occupier" , in relation to a factory, means the person who has ultimate control over the affairs of the factory, and where the control of such affairs is entrusted to a managing agent, includes such managing agent; [§9, 54 of 1961.]

"owner" means the person for the time being receiving the rent of the premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the rent if the premises were let to a tenant;

* See section 55 of Law No. 12 of 1976.

"parent" means a parent or guardian of, or person having the legal custody of, or the control over a child or young person, and includes, in relation to any child or young person, any person having direct benefit from his wages ;

"period of employment" means the period (inclusive of the time allowed for meals and rest) within which persons may be employed on any day ;

"prescribed" means prescribed by regulations of the Minister ;

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

" process " includes the use of any locomotive ;

" railway " means any railway used for the purposes of public traffic whether passenger, goods, or other traffic and includes any works of the railway authority connected with the railway;

" sanitary conveniences" includes urinals, water-closets, earth-closets, privies, ashpits, and any similar convenience ;

"ship", "vessel", and "harbour" have the same meaning as in the Merchant Shipping Act;

"shop" has the same meaning as in the Shop and Office Employees (Regulation of Employment and Remuneration) Act;

- [§54,12 of 1976.] "Specialist Factory Inspecting Engineer" means a Specialist Factory Inspecting Engineer appointed under section 100;
- [§ 54,12 of 1976.] "Specialist Inspecting Medical Officer" means a Specialist Inspecting Medical Officer appointed under section 100;
- [§ 54, 12 of 1976.] "tenement factory" means any premises where mechanical power from any prime mover within the close or curtilage of the premises is distributed for use in manufacturing processes to different parts of the same premises occupied by different persons in such manner that those parts constitute in law separate factories;
- "tramway" means a tramway authorized by or under any law and used for the purpose of public traffic;
- "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;
- [Gaz.Extry No. 14.726/12 of 22.12.1966.] "Wages Board" means a Wages Board established under the Wages Boards Ordinance;
- "week" means the period between midnight of any Saturday and midnight of the next succeeding Saturday;
- "woman" means a female who has attained the age of eighteen;
- "young person" means a person who has attained the age of fourteen and has not attained the age of eighteen.

(2) For the purposes of this Ordinance, machinery or plant shall be deemed to have been constructed or reconstructed before the appointed date or the making of regulations under this Ordinance, and a factory or building shall be deemed to have been constructed, reconstructed, extended, added to, or converted for use as a factory, before the appointed date or the coming into operation of any provision of this Ordinance, if the construction, reconstruction, extension, addition, or conversion was begun before the appointed date, or the making of regulations under this Ordinance, or the coming into operation of any provision of the Ordinance, as the case may be.

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

(4) A woman, young person, or child who works in a factory, whether for wages or not, either in a process or in cleaning any part of the factory used for any process, or in cleaning or oiling any part of the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise the subject of the process therein, shall, save as is otherwise provided by this Ordinance, be deemed to be employed therein for the purposes of this Ordinance or of any proceedings thereunder :

Provided that any woman employed solely in cleaning a factory or any part thereof, otherwise than in cleaning which is incidental to or connected with any process, shall not be deemed for the purposes of Part VII to be employed in the factory.

(5) For the purposes of this Ordinance, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.

(6) For the purposes of this Ordinance, an apprentice shall be deemed to be a person employed.

(7) References in this Ordinance to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

128. A young person who works in a factory whether for wages or not, in collecting, carrying or delivering goods, carrying messages or running errands shall be deemed to be employed in the factory for the purposes of this Ordinance or of any proceedings thereunder :

Application of Ordinance to young persons employed in factories in certain occupations.

Provided that the provisions of Part VII shall not apply, except as expressly provided, to any such young person who is employed mainly outside the factory.

GENERAL

129. Where in any premises which are subject to inspection by or under the authority of any Government department any manual labour is exercised, otherwise than for the purposes of instruction, in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of any article, and the premises do not constitute a factory, the Commissioner may arrange with the department that the premises shall, as respects the matters dealt with by this Ordinance, be inspected by a Factory inspecting Engineer inspector appointed under this Ordinance, and wheresuch an arrangement is made, such Factory inspecting Engineers shall have, as respects such matters as aforesaid, the like right of entry and inspection as is conferred on inspectors or other officers of the department concerned.

Inspection of certain premises.

130. The expenses of the Commissioner in carrying this Ordinance into effect shall be defrayed out of the Consolidated Fund.

Expenses of Commissioner

Mines and Machinery Protection Ordinance, 1896, to cease to apply to factories.

131. With effect from the appointed date the provisions of the Mines and Machinery Protection Ordinance, 1896, shall cease to apply to any factory within the meaning of this Ordinance :

Provided, however, that all rules made under that Ordinance which relate to factories and are in force on the day immediately preceding the appointed date shall, so far as they are not inconsistent with the provisions of this Ordinance and so far as they may be necessary for the purpose of supplementing those provisions, continue in force as if they were regulations made under this Ordinance, until they are repealed or replaced by regulations made under this Ordinance.