

THE FACTORIES ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 297

THE FACTORIES ACT

An Act to make provision for the health, safety and welfare of persons employed in factories and other places, and for related matters.

[1st January, 1952]

[1st July, 1960 - s. 22(3)]

Ord. No. 46 of 1950

Acts Nos.

13 of 1991

6 of 1994

G.Ns. Nos.

34 of 1952

478 of 1962

C.A. Act No. 2 of 1962

[R.L. Cap. 297]

PART I

PRELIMINARY PROVISIONS (ss 1-6)

[PCh297s1]1. Short title

This Act may be cited as the Factories Act.

[Proviso omitted: Spent.]

[PCh297s2]2. General application of Act

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

[PCh297s3]3. Application to factories belonging to Government

This Act shall apply to factories belonging to or in the occupation of the Government of the United Republic of Tanzania.

[PCh297s4]4. Power to exempt in case of public emergency C.A. Act No. 2 of 1962

In case of any public emergency the President may, by order, to the extent and during the period named in the order, exempt from this Act either factories generally or any class or description of factory.

[PCh297s5]5. General interpretation G.N. No. 478 of 1962

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

"Act" means the Factories Act;

"article" includes any solid, liquid or gas, or any combination of them;

"building injury" includes injuries to health;

"building operation" means the construction, structural alteration, repair or maintenance of a building (including re-pointing, re-decoration and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the

foundation of, an intended building, but does not include any operation which is a work of engineering construction within the meaning of this Act;

"chief inspector" means the chief inspector appointed under this Act;

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

"court" means a subordinate court presided over by a resident magistrate or a magistrate;

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

"fume" includes gas or vapour;

"general register" means the register kept in accordance with the requirements of section 62;

"Government" means the Government of the United Republic and any reference to the Government or the Government of the United Republic includes any department;

"High Court" means the High Court of Tanzania;

"inspector" means an inspector appointed under this Act;

"local government authority" means—

(a) in any area under the jurisdiction of a municipal council, town council, or township authority, that council or authority;

(b) in any other area, any person whom or body of persons which the Minister may by notice published in the Gazette declare to be a local government authority for the purposes of this Act;

"machinery" includes any driving-belt;

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

"mine" has the same meaning as in the Mining Act *;

"Minister" means the Minister responsible for labour matters;

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

"prescribed" means prescribed by order 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 used in connection with and for the purposes of the railway;

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

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

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

"work of engineering construction" means the construction of any railway line or siding, and the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipeline, aqueduct, sewer, sewage works, or gasholder, and shall include any other works as may be specified by the Minister by order published in the Gazette.

(2) For the purposes of this Act, machinery or plant shall be deemed to have been constructed or reconstructed before the passing of this Act or the making of rules under this 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 passing or commencement of this Act or the coming into operation of any provision of this Act, if the construction, reconstruction, extension, addition, or conversion begun before the passing or commencement of this Act or the making of rules under this Act, or the coming into operation of any provision of this Act, as the case may be.

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

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

[PCh297s6]6. Interpretation of expression "factory"

(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—

(a) the making of any article or of part of any article;

(b) the altering, repairing, ornamenting, finishing, cleaning, or washing, or the breaking up or demolition of any article; or

(c) the adapting for sale of any article,

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

And (whether or not they are factories by reason of the precise 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 their precincts) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;

(ii) 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;

(iii) any premises in which the construction, reconstruction or repair of locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking or other industrial or commercial undertaking, not

being any premises used for the purposes of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out;

(iv) 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;

(v) any premises in which mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain;

(vi) 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 those operations or works are being carried on;

(vii) any premises in which persons are regularly employed in or in connection with the generating of electrical energy for supply by way of trade, or for supply for the purposes of any industrial or commercial undertaking or of any public building or public institution, or for supply to streets or other public places;

(viii) any premises in which mechanical power is used for the purposes of or in connection with a water supply, being premises in which persons are regularly employed;
or

(ix) any sewage works in which mechanical power is used and any pumping station used in connection with any sewage works:

Provided that the Minister may, if in special circumstances he thinks it expedient so to do, by order published in the Gazette, except any premises or part of any premises

being a factory as defined in this provision defined from the application of all or any of the provisions of this Act.

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

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

(4) No premises in or adjacent to and belonging to a 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.

(5) 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 Act, but shall, if otherwise it would be a factory, be deemed to be a separate factory.

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

(7) Any premises belonging to or in the occupation of the Government of Tanzania or any local government authority, shall not be deemed not to be a factory by reason only that the work carried on there is not carried on by way of trade or for purposes of gain.

PART II

REGISTRATION OF FACTORIES (ss 7-12)

[PCh297s7]7. Register of factories

The chief inspector shall keep a register of factories, in which he shall cause to be entered any particulars in relation to every factory required to be registered under this Act as he may consider necessary or desirable.

[PCh297s8]8. Registration of existing factories

(1) Every person who commencement of this Act occupies a factory shall, within one month after the commencement, apply for the registration of the factory by sending to the chief inspector a written notice containing the particulars set out in the First Schedule.

(2) Upon receipt of the notice the chief inspector shall cause the factory to be registered and shall issue to the occupier a certificate of registration in the form set out in the Second Schedule.

[PCh297s9]9. Registration of new factories Act No. 13 of 1991

(1) Before any person occupies or uses as a factory any premises which were not so occupied or used by him at the commencement of this Act, he shall apply for the

registration of those premises by sending to the chief inspector a written notice containing the particulars set out in the First Schedule.

(2) Upon receipt of the notice and on being satisfied that the premises are suitable for use as a factory of the nature stated in the notice, the chief inspector, shall cause the premises to be registered and shall issue to the applicant a certificate of registration in the form set out in the Second Schedule.

(3) Any person who, without there having been issued to him a certificate of registration as, occupies or uses as a factory any premises which were not so occupied or used by him at the commencement of this Act commits an offence and on conviction is liable to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both the fine and imprisonment and if the contravention in respect of which he was so convicted is continued after the conviction, he shall further be liable in respect of it to a fine not exceeding one hundred shillings, or to imprisonment for a term not exceeding seven days, or to both the fine and imprisonment, for each day on which the offence was so continued.

(4) Where the chief inspector refuses to issue a certificate of registration under this section he shall, if so required by the applicant, state in writing the grounds of the refusal.

[PCh297s10]10. Plans of new factories

Where, under the provisions of any other law for the time being in force in Tanzania plans of an intended factory or of any intended building appurtenant to a factory are submitted to any local government authority, that authority shall, before approving those plans, forward their copies to the chief inspector and, notwithstanding the provisions

of that other law, shall not approve the plans until notified by the chief inspector that the premises concerned are, in his opinion, suitable for use as a factory of the nature proposed.

[PCh297s11]11. Appointment of Factories Appeal Board G.N. No. 478 of 1962

(1) Subject to the provisions of subsection (2) of this section, the Minister may, by notice published in the Gazette, appoint persons whom he thinks fit to be a Factories Appeal Board (in this Act referred to as the Board) for the purpose of hearing and determining any appeal that may be submitted to it under the provisions of section 12.

(2) The Board shall consist of a Chairman and not less than six other members, and the chairman shall be a person having legal qualifications.

(3) At any meeting of the Board, a quorum shall be the chairman and two other members.

(4) The Minister may make rules regulating the procedure of the Board and, in the absence of the rules, the Board shall regulate its own procedure.

[PCh297s12]12. Appeal to Board from decision of chief inspector

(1) If any person is aggrieved by a decision of the chief inspector under the provisions of this Part, he may, within thirty days from the date of the decision, send to the chairman of the Board and to the chief inspector written notice of his intention to appeal to the Board against the decision and the notice shall state the grounds of the appeal.

(2) On receipt of the written notice, the chairman of the Board shall appoint a day and place for the hearing of the appeal, and shall notify the parties concerned in the appeal.

(3) For the purposes of subsection (2) the chief inspector shall be a party concerned in the appeal and shall be entitled to appear and be heard before the Board at the hearing of the appeal.

(4) The Board may, on hearing the appeal, confirm, vary or reverse the decision of the chief inspector, and the decision of the Board shall be final.

PART III

HEALTH (GENERAL PROVISIONS) (ss 13-20)

[PCh297s13]13. Cleanliness

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

(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 inside walls and partitions, and all ceilings or tops of rooms, and all walls, sides and tops of passages and staircases shall—

(i) where they have a smooth impervious surface, at least once in every period of twelve months be washed with hot water and soap or cleaned by other suitable method;

(ii) where they are kept painted with oil paint or varnished, be re-painted or re-varnished at least once in every period of five years, and at least once in

every period of twelve months be washed with hot water and soap or cleaned by other suitable method;

(iii) in other cases be kept whitewashed or colour-washed and the whitewashing or colour-washing shall be repeated at least once in every period of twelve months:

Provided that where it appears to the Labour Commissioner that in any class or description of factory or part of it any of the preceding 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 published in the Gazette 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.

[PCh297s14]14. Overcrowding

(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 in it.

(2) Without prejudice to the generality of subsection (1), a factory shall be deemed to be so overcrowded if the number of persons employed at a time in any workroom is such that the amount of cubic space allowed for every person employed is less than three hundred and fifty cubic feet:

Provided that in calculating, for the purposes of this subsection, the amount of cubic space in any room, no space more than fourteen feet from the floor shall be taken into account, and, where a room contains a gallery, the gallery shall be treated for the

purposes of this subsection as if it were partitioned off from the remainder of the room and formed a separate room.

(3) Every workroom shall be not less than nine feet in height, measured from the floor to the lowest point of the ceiling or, where there is no ceiling, to the lowest point of the roofing material:

Provided that, if the labour Commissioner is satisfied that owing to the special conditions under which the work is carried on in any workroom the application of the provisions of this subsection to that workroom would be inappropriate or unnecessary, he may by certificate in writing except the workroom from those provisions subject to any conditions specified in the certificate.

(4) As respects any room used as a workroom at the date of the passing of this Act, the provisions of subsections (2) and (3) shall not have effect until after the expiration of a period of four years after that date.

[PCh297s15]15. Ventilation

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.

[PCh297s16]16. Lighting

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

(2) 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.

[PCh297s17]17. Drainage of floors

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.

[PCh297s18]18. Sanitary conveniences

(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 (except in the case of factories where the only persons employed are members of the same family dwelling there), the conveniences shall afford proper separate accommodation for persons of each sex.

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

[PCh297s19]19. Enforcement of provisions of section 18 by local authorities G.N.

No. 478 of 1962

The provisions of section 18, and any rules made under it, shall, in the areas which the Minister may by notice published in the Gazette direct, be enforced by the local authority.

[PCh297s20]20. Duty of inspector as to sanitary defects remediable by local authorities

Where an inspector finds any act, default, nuisance or other matter in relation to any sanitary convenience in a factory which appears to him to be the concern of a local authority under this Part he shall give notice of it in writing to the local government authority, which shall proceed as soon as possible to take steps to enforce the provisions of section 18 and any rules made under it as have been contravened.

PART IV

SAFETY (GENERAL PROVISIONS) (ss 21-45)

[PCh297s21]21. Prime movers

(1) Every flywheel directly connected to any prime mover and every moving part of any prime mover, except any prime mover 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.

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

(3) Every part of any electric generator, motor or rotary converter, and every flywheel directly connected to it, 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.

[PCh297s22]22. Transmission machinery G.N. No. 358 of 1959

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

(4) 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.

(5) 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 gear or appliances shall be so constructed, placed and maintained as to prevent the driving-belt from creeping back on to the fast pulley.

(6) The chief inspector may by a certificate in writing grant, subject to any conditions specified in the certificate, exemption from compliance with any of the

requirements of the last four preceding subsections in any case where he is satisfied that compliance with the requirement is unnecessary or impracticable.

[PCh297s23]23. Other machinery

(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 in the opinion of the chief inspector satisfactorily protects the operator from coming into contact with that part.

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

[PCh297s24]24. Provisions as to unfenced machinery

In determining, for the purposes of the preceding provisions of this Act, 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—

(a) no account shall be taken of any person carrying out, while the part of machinery is in motion, an examination of it or any lubrication or adjustment shown by the

examination to be immediately necessary, being an examination, lubrication or adjustment which it is necessary to carry out while the part of machinery is in motion; and

(b) in the case of any part of transmission machinery used in any process in any factory with respect to which the chief inspector has declared, by certificate in writing, that he is satisfied that, owing to the continuous nature of the process, the stopping of that part would seriously interfere with the carrying on of the process in the factory, no account shall be taken of any person carrying out in the factory, by any methods and in these circumstances and subject to such conditions which may be specified in the certificate, any lubrication or any mounting or shipping of belts:

Provided that this section shall only apply where—

(i) the examination, lubrication or other operation as aforesaid is carried out by a person who—

(aa) has attained the apparent age of eighteen years; and

(bb) has been appointed by the occupier of the factory, by certificate attached to the general register, to carry out the examination, lubrication or other operation; and

(cc) has been sufficiently trained for the purposes of the work entailed by, and is acquainted with the dangers of moving machinery arising in connection with, the examination, lubrication or other operation; and

(dd) has been provided by the occupier with and is wearing a close-fitting garment in good repair, which is fastened by means having no exposed loose ends and has no external pockets other than a hip pocket; and

(ii) another person, instructed as to the steps to be taken in case of emergency, is immediately available within sight or hearing of any person carrying out the examination lubrication or other operation; and

(iii) any ladder in use for the carrying out of the examination, lubrication or other operation is securely fixed or lashed, or is firmly held by a person stationed at the foot of the ladder.

[PCh297s25]25. Construction and maintenance of fencing

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 of those parts are necessarily exposed for examination and for any lubrication or adjustment shown by the examination to be immediately necessary, and all the conditions specified in the proviso to section 24 are complied with.

[PCh297s26]26. Construction and disposal of new machinery

(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 opinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and

(b) all spur and other toothed or friction gearing, which does not require frequent adjustment while in motion, shall be completely encased unless it is so situated as to be as safe as it would be if completely encased.

(2) Any person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire, for use in a factory in Tanzania, any machine intended to be driven by mechanical power which does not comply with the requirements of this section commits an offence and on conviction is liable to a fine not exceeding two thousand shillings.

(3) The Minister may by rules extend the provisions of the last preceding subsection of this Act or of any rule made under which may be specified in the rules, and any rules made under this subsection may relate to machinery or plant in a specified process.

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

[PCh297s27]27. Vessels containing dangerous liquids

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

(2) As respects any plant which is referred to in subsection (1) of this section a warning notice, indicating the nature of the danger, and in a form readily understood by

the persons employed, shall be marked on or attached to the plant or, if this is not reasonably practicable, be posted nearby.

[PCh297s28]28. Self-acting machines

(1) 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.

(2) 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.

[PCh297s29]29. Training and supervision of inexperienced workers

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

(a) has received a sufficient training in work at the machine or in the process;
or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine or process.

[PCh297s30]30. Hoists and lifts

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

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

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

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

(5) Every hoist or lift and every enclosure shall be so constructed as to prevent any part of any person or any goods carried in the hoist or lift being trapped between any part of the hoist or lift and any fixed structure or between the 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 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 over-running;

(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 gate efficient devices shall be provided to secure that, when persons or goods are in the cage, the cage cannot be raised or lowered unless the gate is closed, and will come to rest when the gate is opened;

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

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

(a) subsection (7) of this section shall not apply; and

(b) the following subsection shall be substituted for subsection (4):

"(4) Any such gate as aforesaid shall be kept closed and fastened except when the cage or platform is at rest at the landing."; and

(c) in subsection (2) of this section, for the reference to six months there shall be substituted a reference to twelve months.

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

(10) If it is shown to the satisfaction of the chief inspector 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 or liftway, he may by notice published in the Gazette except from any requirement hoists, lifts, hoistways, or liftways of that class or description, and that exception may be unqualified or may be subject to any conditions which may be contained in the notice.

[PCh297s31]31. Chains, ropes and lifting tackle

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

(a) no chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect;

(b) a table showing the safe working loads of every kind and size of chain, rope or lifting tackle in use, and, in the case of a multiple sling, the safe working load at different angles of the legs, shall be prominently displayed on the premises, so, however, that the preceding provisions of this paragraph shall not apply in relation to any lifting tackle if its safe working load or, in the case of a multiple sling, the safe working load at different angles of the legs, is plainly marked upon it;

(c) no chain, rope or lifting tackle shall be used for any load exceeding its safe working load which is shown by the table or is marked upon it;

(d) all chains, ropes and lifting tackle in use shall be thoroughly examined at least once in every period of six months, or at any greater intervals which the chief inspector may, in any particular case, permit by a person approved for the purposes of this section by the chief inspector by certificate in writing;

(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 person approved by the chief inspector for the purposes of this section a certificate of that test and examination, specifying the safe working load and signed by the person making the test and examination, has been obtained and is kept available for inspection:

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

(f) every chain and lifting tackle, except a rope sling, shall, unless of a class or description exempted by the chief inspector by notice published in the Gazette, 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 connection with molten metal or molten slag, in every six months, so, however, that chains and lifting tackle not in regular use need be annealed only when necessary.

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

[PCh297s32]32. Cranes and other lifting machines

(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.

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

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

Provided that the provisions of this subsection shall not apply as respects any lifting machine in respect of which there has been obtained, and is kept available for inspection, a certificate of test and thorough examination issued by the manufacturer of the machine.

(4) 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 those rails or track shall be properly laid, adequately supported or suspended, and properly maintained.

(5) 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 to it 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.

(6) 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 preceding subsection.

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

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

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

[PCh297s33]33. Register of chains, ropes and lifting tackle, and lifting machines

A register, containing the particulars set out in the Third Schedule to this Act, shall be kept in every factory with respect to all chains, ropes or lifting tackle (except fibre rope

slings) to which section 31 applies, and with respect to all lifting machines to which section 32 applies.

[PCh297s34]34. Safe means of access and safe place of employment

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

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

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

(4) 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, 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.

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

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

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

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

[PCh297s35]35. Precautions in places where dangerous fumes are liable to be present

Where work has to be done inside any chamber, tank, vat, pit or other confined space, in which dangerous fumes are liable to be present—

(a) the confined space shall be provided with adequate means of egress for persons entering or working therein; 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 which may be present and to prevent any ingress of fumes and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, the person entering shall wear a belt to which there is securely attached a rope of which the free end is held by a person outside; or

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

(c) suitable breathing apparatus and a suitable reviving apparatus and suitable belts and ropes shall be provided and maintained so as to be readily accessible; and

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

[PCh297s36]36. Precautions with respect to explosive or inflammable dust, gas, vapour or substance

(1) Where, in connection with any grinding, sieving or other process giving rise to dust, gas or vapour there may escape into any workroom dust, gas or vapour 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 that an explosion by enclosure of any plant used in the process, and by removal or prevention of accumulation of the dust, gas or vapour and by exclusion or effective enclosure of possible sources of ignition.

(2) Where there is present in any plant used in the process referred to in subsection (1) dust, gas or vapour 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 that explosion, all practicable steps shall be taken to restrict the spread and effects of such an explosion by the provision, in connection with the plant, of chokes, baffles and vents, or other equally effective appliances.

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

(4) The chief inspector may by certificate in writing 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 the requirement is unnecessary or impracticable.

[PCh297s37]37. Steam boilers

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

(2) Every steam boiler, whether separate or one of a range—

(a) shall have attached to it—

(i) a suitable safety valve, (separate from and incapable of being isolated by any stop-valve), which shall be so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure and shall be fixed directly to, or as close as practicable to, the boiler;

(ii) a suitable stop-valve connecting the boiler to the steam pipe;

(iii) a correct steam pressure gauge, connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler 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 inspector, 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) shall be provided with a suitable fusible plug or an efficient low-water alarm device:

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

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

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

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

(a) all inlets through which steam or hot water might otherwise enter the boiler from any other part of the range are disconnected from that part; or

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

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

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

Provided that—

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

(b) [Omitted: Spent.]

(8) Any examination in accordance with the requirements of subsection (7) shall consist, in the first place, of an examination of the boiler when it is cold and the interior and exterior have been prepared in the prescribed manner, and secondly, except in the case of an economizer or super-heater, of an examination when it is under normal steam pressure; the examination under steam pressure shall be made as soon as possible after the examination of the boiler when cold, and the person making the examination shall see that

the safety valve is so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.

(9) A report of the result of every examination, in the prescribed form and containing the prescribed particulars (including particulars of the maximum permissible working pressure), shall, as soon as practicable and in any case within twenty-eight days of the completion of the examination, be entered in or attached to the general register, and the report shall be signed by the person making the examination; and for the purposes of this subsection and the succeeding provisions of this section relating to reports of examinations, the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations.

(10) No steam boiler which has previously been used shall be taken into use in any factory for the first time in that factory until it has been examined and reported on in accordance with the last three preceding subsections; and no new steam boiler shall be taken into use unless there has been obtained from an authorised boiler inspector 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 the certificate is kept available for inspection, and the boiler is so marked as to enable it to be identified as the boiler to which the certificate relates.

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

(12) Any person who, for the purposes of this section, desires that an examination of a steam boiler should be carried out by, and any person who desires to obtain the certificate referred to in subsection 10 of this section from, any authorised boiler inspector who is an officer of the Government shall notify the chief inspector accordingly and, on payment by that person of the prescribed fee, the chief inspector shall instruct that an authorised boiler inspector carry out the said examination, or to carry out the necessary tests with a view to the issue of the said certificate, as the case may be.

(13) In this section—

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

"maximum permissible working pressure" means in the case of a new steam boiler, that specified in the certificate referred to in subsection (10) 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.

(14) This section shall not apply to the boiler of any locomotive used on any railway operated by the Government and which is the property of the Government or to the boiler of any ship.

[PCh297s38]38. Steam receivers and steam containers

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

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

(a) a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure of the receiver being exceeded; and

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

(c) a correct steam pressure gauge, which shall 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,

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

(3) For the purpose of the provisions of the last preceding 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.

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

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

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

(7) Any person who, for the purposes of this section, desires that an examination of a steam receiver should be carried out by, and any person who desires to obtain the certificate referred to in subsection (6) of this section from, any authorised boiler inspector who is an officer of the Government shall notify the chief inspector accordingly and, on payment by such person of the prescribed fee, the chief inspector shall instruct that authorised boiler inspector to carry out the said examination, or to carry out the necessary tests with a view to the issue of the said certificate, as the case may be.

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

(9) In this section—

"authorised boiler inspector" means any person (whether an officer of the Government or not) who is authorised by the chief inspector, by certificate in writing, to carry out examinations of steam receivers in accordance with, and for the purposes of, this section and to issue the certificate referred to in subsection (6) of this section;

"maximum permissible working pressure" has the same meaning as in section 37 of this Act;

"safe working pressure" means, in the case of a new steam receiver, that specified in the certificate referred to in subsection (6), 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 container" means any vessel (other than a steam pipe or coil) constructed with a permanent outlet into the atmosphere or into a space where the pressure does not

exceed atmospheric pressure, and through which steam is passed at atmospheric pressure, or at approximately that pressure, for the purpose of heating, boiling, drying, evaporating or other similar purpose;

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

[PCh297s39]39. Air receivers

(1) Every air receiver shall—

(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 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 distinguishing mark which shall be easily visible.

(2) For the purpose of the provisions of the preceding 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-six months:

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

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

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

every such examination and test shall be carried out by an approved person, and a report of the result of every such examination and test, in the prescribed form and containing the prescribed particulars (including particulars of the safe working pressure), shall be entered

in or attached to the general register, and the report shall be signed by the person making the examination or test.

(5) Any occupier of a factory who, for the purposes of this section, desires that an examination of an air receiver should be carried out by an approved person who is an officer of the Government shall notify the chief inspector accordingly and, on payment by that occupier of the prescribed fee, the chief inspector shall instruct the approved person to carry out the said examination.

(6) In this section—

"air receiver" means—

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

(b) any fixed vessel for containing compressed air or compressed exhaust gases and used for the purpose of starting an internal combustion engine;

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

[PCh297s40]40. Exceptions as to steam boilers, steam receivers, steam containers, and air receivers

The chief inspector may, by notice published in the Gazette, except from any of the provisions of section 37, 38 and 39 of this Act any class or type of steam boiler, steam

receiver, steam container or air receiver to and which he is satisfied that the provision cannot reasonably be applied, and that exception may be unqualified or may be subject to any conditions which may be contained in the notice.

[PCh297s41]41. Prevention of fire

(1) In every factory there shall be provided and maintained, so as to be readily accessible, means for extinguishing fire, which shall be adequate and suitable having regard to the circumstances of each case.

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

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

[PCh297s42]42. Safety provisions in case of fire

(1) Every factory shall be provided with adequate means of escape in case of fire for the persons employed there, having regard to the circumstances of each case.

(2) All such means of escape shall be properly maintained and kept free from obstruction.

(3) 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.

(4) While any person is within a factory for the purpose of employment or meals, the doors of the factory, and of any room in it 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.

(5) In the case of any factory constructed or converted for use as a factory after the coming into operation of this section, all doors affording a means of exit from the factory for the persons employed there shall, except in the case of sliding doors, be constructed to open outwards.

(6) Every hoistway or liftway inside a building constructed after the coming into operation of this section shall, subject as hereafter in this subsection 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 hoistway or liftway shall be enclosed at the top only by some materials easily broken by fire, or be provided with a vent at the top.

(7) Every window, door, or other exit affording means of escape in case of fire or giving access to it, other than the means of exist in ordinary use, shall be distinctively and conspicuously marked by a notice printed in red letters of an adequate size. All such notices shall be in English and Kiswahili and in any other language and in the from which the inspector may direct.

(8) In every factory effective steps shall be taken to ensure that all the persons employed are familiar with the means of escape in case of fire, and with the routine to be followed in case of fire.

[PCh297s43]43. Power of Court to make orders as to dangerous conditions and practices

(1) If on complaint by an inspector a court is satisfied either–

(a) that any part of the ways, works, machinery, or plant used in a factory is in such a condition or is so constructed or is so placed that it cannot be used without risk of bodily injury; or

(b) that any process or work is carried on or anything is or has been done in any factory in such a manner as to cause risk of bodily injury, the court shall, as the case may require, by order–

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

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

(2) Where a complaint is or has been made under subsection (1), the court may, on application ex parte by the inspector, and on receiving evidence that the use of that 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 the a manner as referred in subsection (1) 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 a hearing and determining the complaint.

(3) In the event of a contravention, in relation to any factory, of an order of a court made under this section, the occupier of the factory commits an offence and on conviction is liable to a fine not exceeding two thousand shillings, or to imprisonment for a term not

exceeding three months, or to both the fine and imprisonment, and if the contravention in respect of which he was so convicted is continued after the conviction, he shall be guilty of an offence and be liable in respect of it to a fine not exceeding one hundred shillings, or to imprisonment for a term not exceeding seven days, or to both such penalties, for each day on which the offence was so continued.

[PCh297s44]44. Power of Court to make orders as to dangerous factory

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

(2) An order made by a court under this section may—

(a) prohibit the carrying on of any process or work 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 and health of the persons employed; and

(b) be revoked or varied on the application by way of complaint of the occupier or owner of the factory:

Provided that, on any such application as aforesaid, an inspector shall be entitled to be heard.

(3) If any process or work is carried on in a factory or part of a factory in contravention of an order of a court made under this section, the occupier of the factory shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand

shillings or to imprisonment for a term not exceeding three months, or to both, and if the contravention in respect of which he was so convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect of it to a fine not exceeding one hundred shillings, or to imprisonment for a term not exceeding seven days, or to both, for each day on which the offence was so continued.

[PCh297s45]45. Appeal from orders made on complaint

Any person (including an inspector) aggrieved by an order made by a court on determining a complaint under sections 43 and 44 may appeal to the High Court, whose decision shall be final.

PART V

WELFARE (GENERAL PROVISIONS) (ss 46-50)

[PCh297s46]46. Supply of drinking water

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

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

[PCh297s47]47. Washing facilities

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

(2) The chief inspector may, by certificate in writing, except from any of the requirements of subsection (1) any factory where, by reason of the difficulty of obtaining an adequate supply of water or the fact that accommodation is restricted and adequate and suitable washing facilities are otherwise conveniently available, or any other special circumstances which may be specified in the certificate, the application of the requirement would in his opinion be unreasonable.

(3) The Minister may by rules 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.

[PCh297s48]48. Accommodation for clothing

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

[PCh297s49]49. First-aid

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

(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 always be readily available during working hours, and a

notice shall be affixed in every work-room stating the name of the person in charge of the first-aid box or cupboard provided in respect of that room.

[PCh297s50]50. Exemption if ambulance room provided

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 inspector may by certificate in writing exempt the factory from the requirements of section 49 to such extent and subject to any conditions which he may specify in the certificate.

PART VI

HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND RULES) (ss 51-56)

[PCh297s51]51. Removal of dust or fumes

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

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

[PCh297s52]52. Meals in certain dangerous trades

Where in any room any poisonous or otherwise injurious substance is so used as to give rise to any dust or fume, no person shall be permitted to partake of food or drink in that room.

[PCh297s53]53. Protective clothing and appliances

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

[PCh297s54]54. Protection of eyes in certain processes

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

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

[PCh297s55]55. Power to make rules for health, safety and welfare

(1) Where the Minister is satisfied that any manufacture, machinery, plant, equipment, appliance, process or description of manual labour used in factories is of such a nature as to cause risk of bodily injury, or be offensive, to the persons employed, or any class of those persons, he may, subject to the provisions of this Act, make any rules which appear to him to be reasonably practicable and to meet the necessity of the case.

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

(a) prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, equipment, appliance, process or description of manual labour; or

(b) prohibit, limit or control the use of any material or process; or

(c) modify or extend with respect to any class or description of factory any provisions of Part III, Part IV, Part V or this Part, being provisions imposing requirements as to health, safety or welfare; or

(d) apply provisions relating to–

(i) arrangements for preparing or heating, and taking, meals;

(ii) ambulance and first-aid arrangements;

(iii) rest rooms;

(iv) arrangements for the supervision of persons employed,

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

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

[PCh297s56]56. Power to take samples

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

(2) The occupier or the manager 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 inspector to divide the sample into three parts, to mark and seal or fasten up each part in such manner as its nature permits, and—

(a) to deliver one part to the occupier, or the manager 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 Chemist.

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

(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 Act, 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 one thousand shillings.

PART VII

SPECIAL APPLICATIONS AND EXTENSIONS (ss 57-60)

[PCh297s57]57. Premises where part of building is separate factory

(1) Where a part of a building is let out as a separate factory, the provisions of this Act shall apply to any part of the building used for the purposes of the factory not comprised in it, that is to say—

- (a) the provisions of Part III with respect to cleanliness and lighting;
- (b) the provisions of Part IV with respect to prime movers, transmission machinery, hoists and lifts, chains, ropes and lifting tackle, lifting machines, safe means of access and safe place of employment, steam boilers, steam receivers and steam containers, and air receivers (including the provisions as to exceptions as to steam boilers, steam receivers, steam containers, and air receivers);
- (c) the provisions of Part IV with respect to the power of a court to make orders as to dangerous conditions and practices, and as to dangerous factories, and the owner of the building shall be responsible for any contravention of the said provisions and shall also be responsible, instead of the occupier of the factory, for any contravention as respects the factory of the provisions of Part III with respect to sanitary conveniences and of the provisions of Part IV with respect to hoists and lifts, prevention of fire, and safety provisions in case of fire, and, for the purposes of the provisions with

respect to prevention of fire and safety provision, in case of fire, the factory shall be deemed to include any part of the building used for the purposes of the factory:

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

(2) In sections 43 and 44, as they apply in relation to the factory and as they are applied by subsection (1), references to the occupier shall be taken as references to the occupier of the factory or to the owner of the building, according to which of them is responsible in respect of the matters complained of.

(3) For the purposes of the provisions applied by subsection (1) 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 factory, and any chains, ropes or lifting tackle not used in connection with a lifting machine so used, shall be disregarded.

(4) Where, under subsection (1) of this section, any provision is applied containing a reference to the general register, then, in relation to matters in respect of which the owner of the building is responsible, that reference shall be taken as a reference to a

register to be kept by him, and subsection (2) of section 81 shall apply in relation to that register as if the owner were the occupier of a factory.

[PCh297s58]58. Docks, wharves and quays

(1) The provisions referred to in this section shall apply to every dock, wharf or quay as if it were a factory, and as if the person having the actual use or occupation of the dock, wharf or quay were the occupier of a factory, that is to say—

(a) Part I;

(b) the provisions of Part IV 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;

(c) the provisions of Part IV with respect to the power of a court to make orders as to dangerous conditions and practices;

(d) the provisions of Part VI with respect to rules for health, safety and welfare;

(e) the provisions of Part VIII with respect to the abstract of this Act, rules and notices, general registers (so far as applicable) and preservation of registers and records, subject to any modifications which may be made by rules made by the Minister; and the provisions of the said Part VIII with respect to duties of persons employed, and the prohibition of deductions from wages;

(f) the provisions of Part IX with respect to powers and duties of inspectors and to rules and orders made under this Act;

(g) Part X;

(h) Part XI.

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

Provided that the provisions mentioned in the said paragraphs (c) and (d) shall not apply in relation to any machinery or plant which is on board a ship and is the property of the ship and is the property of the ship owner, and 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.

[PCh297s59]59. Premises in which steam boilers are used G.N. No. 478 of 1962

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

(a) Part II;

(b) the provisions of Part IV with respect to steam boilers and to steam receivers and steam containers (including the provisions as to exceptions as to steam

boilers, steam receivers and steam containers, so, however, that the owner of the boiler, receiver or container shall, instead of the person deemed to be the occupier, be responsible for any contravention of the said provisions in so far as they relate to matters within his control;

(c) the provisions of Part IV with respect to the power of a court to make orders as to dangerous conditions and practices;

(d) the provisions of Part VI with respect to rules for health, safety and welfare;

(e) the provisions of Part VIII with respect to general registers (so far as applicable), and preservation of registers and records, subject to any modifications which may be made by rules made by the Minister, and the provisions of the said Part VIII with respect to duties of persons employed;

(f) the provisions of Part IX with respect to powers and duties of inspectors, and to rules and orders made under this Act;

(g) Part X; and

(h) Part XI.

(2) If, after the commencement of this Act, a steam boiler is newly taken into use in any premises (not being premises forming part of a factory), the occupier shall, within one month after the date upon which the boiler is first used, send a like notice to the chief inspector.

The Minister may, by order published in the Gazette, and subject to any conditions which may be specified in the order, extend the application of all or any of the provisions of this Act to any of the following classes of premises, processes or operations, that is to say—

- (a) warehouses (not forming part of any factory);
- (b) any premises (not being premises forming part of a factory) in which a hoist or lift is used;
- (c) 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, scuffing or cleaning boilers (including combustion chambers and smoke boxes) in a ship, or in cleaning oil-fuel tanks or bilges in a ship or any tank in a ship last used for oil of any description carried as cargo;
- (d) building operations undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and any line or siding which is used in connection with it and for its purposes of and is not part of a railway; or
- (e) works of engineering construction undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and any line or siding which is used in connection with it and for its purposes and is not part of a railway.

PART VIII

DOCUMENTS, REGISTERS, PERIODICAL RETURNS, ETC., TO BE KEPT AT THE FACTORY (ss 61-66)

[PCh297s61]61. Posting of abstract of Act, rules and notices

- (1) There shall be kept posted in a prominent position in every factory—
- (a) the prescribed abstract of this Act;
 - (b) a notice of the address of the chief inspector and of the nearest labour officer;
 - (c) printed copies of any rules made under Part VI which are for the time being in force in the factory, or the prescribed abstracts of those rules; and
 - (d) every other notice and document required by this Act to be posted in the factory.

(2) All the documents shall be in English and Kiswahili and in such other language as an inspector may direct and, if a form has been prescribed for any document, it shall be posted in that form.

[PCh297s62]62. General registers

- (1) There shall be kept in every factory a register, in the prescribed form, called the general register, and there shall be entered in or attached to that register—
- (a) the certificate of registration of the factory;
 - (b) every other certificate issued in respect of the factory by the chief inspector under the provisions of this Act;
 - (c) the prescribed particulars as to the washing, whitewashing or colourwashing, painting or varnishing, of the factory;

(d) the prescribed particulars as to every accident and case of occupational disease occurring in the factory of which notice is required to be sent to a labour officer under the provisions of any law for the time being in force in Tanzania;

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

(f) such other matters as may be prescribed.

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

[PCh297s63]63. Preservation of registers and records

The general register and every other register or record kept in pursuance of this Act shall be preserved and shall be kept available for inspection by any inspector for two years, or such shorter period, if any, 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.

[PCh297s64]64. Periodical return of persons employed

(1) The occupier of every factory, or of any place to which any of the provisions of this Act apply, shall, if so required by the Minister, by order published in the Gazette, send to the chief inspector, at such intervals and on or before such days as may be specified in the order, a correct return showing, with respect to the day or days, or that period, which may be specified in the order, the number of persons employed in the factory or place and giving any particulars of any other matters which the order may require.

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

[PCh297s65]65. Duties of persons employed

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

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

[PCh297s66]66. Prohibition of deductions from wages

The occupier of a factory shall not, in respect of anything to be done or provided by him in pursuance of this Act, make any 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 that person.

PART IX

ADMINISTRATION (ss 67-71)

[PCh297s67]67. Administration of Act

The Labour Commissioner shall, subject to the provisions of section 19, be responsible for the administration of this Act.

[PCh297s68]68. Appointment of inspectors G.N. No. 478 of 1962

(1) The Permanent Secretary, Ministry of Labour may appoint a chief inspector and any other inspectors and officers whom he think necessary (under whatever title he may from time to time determine) for the purpose of the execution of this Act.

(2) Notice of the appointment of every inspector shall be published in the Gazette.

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

(4) A person who is the occupier of a factory, or is directly interested therein or in any process or business carried on in it, or in a patent connected with it, or is employed in or about a factory, shall not act as an inspector.

(5) No inspector, except in so far as is necessary for the purposes of a prosecution for an offence under this Act, shall publish or disclose to any person the details of any manufacturing or commercial or working process which may come to his knowledge in the course of his duties.

(6) An inspector shall treat as absolutely confidential the source of any complaint bringing to his notice a contravention of the provisions of this Act, and shall give no intimation to the occupier or his representative that a visit of inspection was made in consequence of such complaint

(7) A person who contravenes any of the provisions of subsections (4), (5) or (6) of this section commits an offence.

[PCh297s69]69. Powers of inspectors

(1) An inspector shall, for the purpose of the execution of this Act, have power—

(a) to enter, inspect and examine, by day or by night, a factory, and every part of it, when he has reasonable cause to believe that any person is employed there, and to enter, inspect and examine by day, any place which he has reasonable cause to believe to be a factory and any part of any building of which a factory forms part and in which he has reasonable cause to believe that explosive or highly inflammable materials are stored or used;

(b) to take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(c) to require the production of the registers, certificates, notices and documents kept in pursuance of this Act and to inspect, examine and copy any of them;

(d) to make any examination and inquiry which may be necessary to ascertain whether the provisions of this Act; and of the enactments for the time being in force relating to public health, are complied with, so far as respects a factory and any persons employed in a factory;

(e) to require any person whom he finds in a factory to give any information which it is in his power to give as to who is the occupier of the factory;

(f) to examine any person, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, and to require every such person 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;

(g) in the case of an inspector who is a registered medical practitioner, to carry out any medical examinations which may be necessary for the purposes of his duties under this; or

(h) to exercise any other powers which may be necessary for carrying this Act into effect.

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

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

(4) Where an inspector is obstructed in the execution of his powers or duties under this Act, the person obstructing him commits an offence, and on conviction is liable to a fine not exceeding two hundred shillings, or to imprisonment for a term not exceeding one

month, or to both penalties; and where an inspector is so obstructed in a factory, the occupier of that factory shall be guilty of an offence.

(5) Any notice or certificate issued by the chief inspector under the provisions of this Act may be issued for a limited period or without limit of period and may be varied or revoked by the chief inspector:

Provided that this subsection shall not apply as respects any certificate of registration of a factory issued by the chief inspector under the provisions of Part II.

[PCh297s70]70. Power of inspector to conduct proceedings before a magistrate's court

(1) An inspector may, although he is not an advocate, prosecute, conduct, or defend before a court any charge, information, complaint, or other proceeding arising under this Act, or in the discharge of his duty as an inspector.

(2) It shall not be an objection to the competency of an inspector to give evidence as a witness in any prosecution for an offence against this Act that the prosecution is brought at his instance or conducted by him.

[PCh297s71]71. Provisions as to rules and orders made under this Act

(1) All rules made by the Minister under this Act shall have the same force and effect as if they had been enacted in this Act and shall be laid before the National Assembly on the first day of the meeting next after the date of their making, and shall, subject to the terms of any resolution that may be passed, come into operation thirty days after they have been so laid.

(2) Any rules or order made under this Act may be made for a limited period or without limit of period, and may be made subject to such conditions as the authority or person making them thinks fit, and may contain such supplemental and consequential provisions as that authority or person considers necessary for giving full effect to the rules or order, and may be varied or revoked by subsequent rules or by a subsequent order made in like manner as the original rules or order.

PART X

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS (ss 72-84)

[PCh297s72]72. Offences

(1) In the event of any contravention in or in connection with or in relation to factory, of the provisions of this Act, contravention is one in respect of which the owner is by or under this made responsible the owner of the factory shall, subject to this Act commit an offence.

(2) In the event of a contravention by an employed person of the provisions of Part VIII with respect to duties of persons employed or of a contravention by any person of any rule or order made under this Act which expressly imposes any duty upon him, that person commits an offence and the occupier or owner, as the case may be, shall not be guilty of an offence by reason only of the contravention of the said provisions of Part VIII of this Act, or the contravention of the provision imposing the said duty, as the case may be, unless it is proved that he failed to take all reasonable steps to prevent the contravention; but this subsection shall not be taken as affecting any liability of the

occupier or owner in respect of the same matters by virtue of some provision other than the provisions or provision referred to in this subsection.

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

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

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

[PCh297s73]73. Penalty for offences for which no express penalty provided Act No. 13 of 1991 Sch.

Subject to this Act, any person who commits an offence under this Act for which no penalty is expressly provided shall be liable to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both 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 74 of this Act) be guilty of a further offence and

be liable in respect of it to a fine not exceeding one hundred shillings for each day on which the contravention was so continued.

[PCh297s74]74. Power of court to order cause of contravention to be remedied Act No. 6 of 1994 Sch.

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

[PCh297s75]75. Penalty in case of death or injury

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 Act or of any rule or order made under it, the occupier or owner of the factory shall, without prejudice to any other penalty, be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months, or to both the penalties and the whole or any part of the fine may be applied for the benefit of the injured person or his family or otherwise as the court may order:

Provided that—

(a) in the case of injury to health, the occupier or owner shall not be liable to a penalty under this section unless the injury was caused directly by the contravention; and

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

[PCh297s76]76. Forgery of certificates, false entries and false declarations Act No. 13 of 1991 Sch.

If any person—

(a) forges or counterfeits any certificate required by, under, or for the purposes of, this Act or any order or rule made under it; or

(b) gives or signs any certificate knowing it to be false in any material particular; or

(c) knowingly utters or makes use of any certificate so forged counterfeited, or false as aforesaid; or

(d) knowingly utters or makes use of, as applying to any person, any certificate which does not so apply; or

(e) personates any person named in any certificate; or

(f) falsely pretends to be an inspector; or

(g) wilfully connives at any forging, counterfeiting, giving, signing, uttering, making use, personating or pretending; or

(h) wilfully makes a false entry in any register, notice, certificate, or document required by, under, or for the purposes of, this Act or any order or rule made thereunder to be kept or served or sent; or

(i) wilfully makes or signs a false declaration required by, under, or for the purposes of, this Act or any order or rule made under it; or

(j) knowingly makes use of any false entry or declaration commits an offence and upon conviction, without prejudice to any other penalty, is liable to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding ten months, or to both the penalties.

[PCh297s77]77. Penalty on persons actually committing offence for which occupier is liable

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

[PCh297s78]78. Power of occupier or owner to exempt himself from liability on conviction of the actual offender Act No. 13 of 1991 Sch.

(1) Where the occupier or owner of a factory is charged with an offence under this Act, he shall be entitled, upon a charge duly made by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person whom he charges as the actual offender (whether or not that person is his agent or servant) brought before the court at the time appointed for hearing the charge; and if, after the

commission of the offence has been proved, the occupier 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 Act and of any relevant order or rule made under it; and

(b) that the said other person had committed the offence in question without his consent, connivance, or wilful default,

that other person shall be convicted of the offence, and the occupier or owner shall not be guilty of the offence, and the person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings; and the prosecution shall have the right in that 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 of the factory has used all due diligence to enforce the execution of this Act and of any relevant order or rule made under it; and

(b) by what person the offence has been committed; and

(c) that it has been committed without the consent, connivance, or wilful default of the occupier or owner and in contravention of his order, the inspector shall proceed against the person who he believes to be the actual offender without first proceeding against the occupier or owner of the factory.

[PCh297s79]79. Proceedings against persons other than occupiers or owners

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

[PCh297s80]80. Prosecution of offences

(1) All offences under this Act shall be prosecuted, and all fines under this Act shall be recovered, in a subordinate court presided over by a resident magistrate or a district magistrate.

(2) In any proceedings under this Act, it shall be sufficient in the charge or information to allege that the factory is a factory within the meaning of this Act and to state the name of the ostensible occupier of the factory or, where the occupier is a firm, the title of the firm, and the burden of proving that the premises are not a factory, or that the occupier specified in the charge or information is not the occupier of the factory, shall lie upon the person alleging that fact.

(3) Where any offence is committed under this Act by reason of a failure to make an examination, enter a report, or do any other thing, at or within a time specified by this Act (or any rule or order made under it) 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.

[PCh297s81]81. Special provisions as to evidence

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

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

(2) Where any entry is required by this Act or by any order or rules made under it 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 stated in it, and the fact that any entry so required with respect to the observance of any provision of this Act or of any order or rule made under it has not been made, shall be admissible as evidence that provision has not been observed.

[PCh297s82]82. Service and sending of documents, etc.

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

(a) on any person by delivering it to him, or by leaving it at, or sending it by post to, his residence or place of business;

(b) on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by post to, the office of the firm;

(c) on the owner or occupier of a factory (including the owner or occupier being a company to which the Companies Act * applies or a co-operative society to which the Co-operative Societies Act * applies), in the manner as referred to in the preceding

provisions or by delivering it, or a true copy of it, to any responsible person apparently not under the age of a sixteen years at the factory.

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

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

[PCh297s83]83. Power to modify agreements

If by reason of an agreement between the owner and the occupier of premises the whole or any part of which has been let as a factory the 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 Act or of any rule or order made under this Act or in order to conform with any standard or requirement imposed by or under this Act, he may apply to the High Court for the terms of the agreement to be set aside or modified; and the Judge, after hearing the parties and any witnesses whom they may desire to call, may make an order setting aside or modifying the terms of the agreement which he considers just and equitable in the circumstances of the case.

[PCh297s84]84. Power to apportion expenses

Where in any premises the whole or any part of which has been let as a factory any structural or other alterations are required in order to comply with the provisions of this or of any rule or order made under this Act, or in order to conform with any standard or

requirement imposed by or under this Act, and the owner or occupier, as the case may be, alleges that the whole or part of the expenses of the alterations ought to be borne by the occupier or owner, the owner or occupier may apply to High Court for the expenses of the alterations to be apportioned between them; and the Judge, after hearing the parties and any witnesses whom they may desire to call, may make such an order concerning the expenses or their apportionment as he 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, he may, at the request of the owner or occupier, determine the lease.

PART XI

MISCELLANEOUS PROVISIONS (s 85)

[PCh297s85]85. Saving

Except where it is provided otherwise, the provisions of this Act shall be in addition to, and not in substitution for or diminution of, the provisions of any other Act:

Provided that no person shall be liable to be punished both under this and under another Act in respect of the same acts or omissions.

FIRST SCHEDULE

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

THE FACTORIES ACT

(Section 8(1))

1. Name of the occupier, or intending occupier, of the factory.

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

SECOND SCHEDULE

CERTIFICATE OF REGISTRATION OF A FACTORY

THE FACTORIES ACT

(Section 8(2))

No. of Certificate.....

Date of Issue.....

I hereby certify that the factory named below has been duly registered in pursuance of section of the Factories Act.

Name of occupier

Address and location of
factory.....

Nature of
work.....

.....

Chief Inspector of Factories

THIRD SCHEDULE

REGISTER OF CHAINS, ROPES AND LIFTING TACKLE, AND LIFTING MACHINES

THE FACTORIES ACT

(Section 33)

1. Name of occupier of factory.
2. Address and location of the factory.
3. Distinguishing number or mark and description sufficient to identify the chain, rope or lifting tackle, or the lifting machine.

4. Date (if after the commencement of this Act when the chain, rope or lifting tackle, or the lifting machine, was first taken into use in the factory.
5. Date of each examination made under section 31 (1) (d) or section 32 (2), as the case may be, and the name of the person by whom it was carried out.
6. Particulars of any defect found at any examination and affecting the safe working load, and of the steps taken to remedy the defect.
7. Date and number of the certificate relating to any test and examination made under section 31 (1) (e) or section 32 (3), as the case may be, together with the name and address of the person who issued the certificate.
8. In the case of chains and lifting tackle (except rope slings), dates of annealing or other heat treatment.

FOURTH SCHEDULE

PROCESSES REQUIRING PROVISION OF SUITABLE GOGGLES OR EFFECTIVE SCREENS

THE FACTORIES ACT

(Section 54)

1. Dry grinding of metals, or articles of metal, applied by hand to a revolving wheel or disc driven by mechanical power.

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

FIFTH SCHEDULE

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

THE FACTORIES ACT

(Section 59)

1. Name of the occupier of premises.

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