



FACTORIES (AMENDMENT) LAW.
NO. 12 OF 1976
OF
THE NATIONAL STATE ASSEMBLY

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*Factories (Amendment) Law,
No. 12 of 1976*

L. D.—O. 60/70.

A LAW TO AMEND THE FACTORIES ORDINANCE.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Factories (Amendment) Law, No. 12 of 1976.

Short title.

2. Part I of the Factories Ordinance (hereinafter referred to as the "principal enactment") replaced by Act No. 54 of 1961, is hereby repealed and the following new Part substituted therefor:—

Replacement
of Part I
of Chapter
12B.

PART I

REGISTRATION AND LICENSING OF FACTORIES AND
APPROVAL OF FACTORY BUILDINGS

Registration
and
licensing of
factories
and
approval of
buildings.
&c.

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

Provided that the occupation during the period of three months commencing from the notified date by the occupier of a factory established before the notified date shall be deemed not to be a contravention of the preceding provisions of this section.

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

(3) On and after the notified date no person shall commence—

(a) the construction of a factory building on any site; or

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(b) the making of any extension to any factory building; or

(c) the conversion of any other building into a factory building,

unless—

(i) the site on which the factory building is to be constructed and the construction of the factory, the making of the extensions or the conversion, as the case may be, has been approved by the Chief Inspecting Engineer or the District Factory Inspecting Engineer, and

(ii) the plans for the construction of the factory, the making of the extensions or the conversion, as the case may be, have been approved by a panel of civil engineers nominated by the Commissioner for the purpose of reporting on the structural worthiness of the factory building.

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

Power to
make
regulations.

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

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

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

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

(3) For the purpose of the registration and licensing of factories different regulations may be made under the preceding provisions of this section—

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

4. On and after the notified date no person shall commence the occupation of, or the use of any premises as, a factory unless he has, at least one month before the date on which it is intended to commence such occupation or use, served on the Chief Factory Inspecting

Notice of
intention to
commence the
occupation
of, or the
use of any
premises as,
a factory.

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Engineer or the District Factory Inspecting Engineer a written notice stating the intention to commence such occupation or use, and specifying the name and address of such person, the situation of the factory or premises, the nature of the work to be carried on therein and the particulars in respect of such matters relating to the factory or premises as may be prescribed:

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

Notice of suspension and resumption of work in a factory.

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

(a) shall serve on the Chief Factory Inspecting Engineer or the District Factory Inspecting Engineer a written notice specifying the date on which such work was suspended; and

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

Local authorities not to issue licences in respect of factories unless registered under this Ordinance.

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

3. Section 16 of the principal enactment is hereby amended as follows:—

Amendment of section 16 of the principal enactment.

- (a) by the repeal of subsection (2) thereof; and
- (b) by the renumbering of subsection (3) thereof as subsection (2).

4. Section 22 of the principal enactment is hereby amended by the substitution, for subsection (2) thereof, of the following new subsection:—

Amendment of section 22 of the principal enactment.

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

5. Section 23 of the principal enactment is hereby amended as follows:—

Amendment of section 23 of the principal enactment.

- (a) by the substitution, for subsection (2) thereof, of the following new subsection:—

“(2) Where any fixed vessel, structure, sump or pit contains any scalding, corrosive or poisonous liquid but is not securely covered, no ladder, stair or gangway shall be placed above, or across it, which is not—

- (a) at least eighteen inches wide, and
- (b) securely fenced on both sides to a height of at least three feet and securely fixed.”;

- (b) by the insertion, immediately after subsection (2) thereof, of the following new subsections:—

“(3) Where any such vessels, structures, sumps or pits as are mentioned in subsection (2) adjoin, and the space between, clear of any surrounding brick or other work, is less than eighteen inches in width or is not securely fenced on both sides to a height of at least three feet, secure barriers shall be so placed as to prevent passage between them.

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

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

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

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

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

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

(c) by the substitution, for the marginal note to that section, of the following new marginal note:—

"Vessels containing dangerous substances."

Amendment of
section 31
of the
principal
enactment.

6. Section 31 of the principal enactment is hereby amended, by the substitution, for subsection (2) thereof, of the following new subsection:—

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

Amendment of
section 32
of the
principal
enactment.

7. Section 32 of the principal enactment is hereby amended as follows:—

(a) by the substitution, for subsection (1) thereof, of the following new subsection:—

"(1) Where work has to be done inside any chamber, tank, vat, pit, pipe, flue or similar confined space, in which dangerous fumes,

toxic substances or harmful liquids are liable to be present or a deficiency of oxygen is liable to occur, to such an extent as to involve risk of persons being overcome thereby—

- (a) the confined space shall, unless there is other adequate means of egress, be provided with a manhole, which may be rectangular, oval, or circular in shape, and shall be not less than eighteen inches long and sixteen inches wide or (if circular) not less than eighteen inches in diameter, or in the case of tank wagons and other mobile plant not less than sixteen inches long and fourteen inches wide or (if circular) not less than sixteen inches in diameter; and
- (b) no person shall enter the confined space for any purpose unless the following requirements are complied with:—
 - (i) all practicable steps shall be taken to remove any fumes, toxic substances or harmful liquids which may be present and to prevent any ingress of fumes and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, toxic substances or harmful liquids, the person entering shall wear a belt to which there is securely attached a rope of which the free end is held by a person outside; or
 - (ii) the person entering shall wear a suitable breathing apparatus;
- (c) suitable breathing apparatus and a suitable reviving apparatus and suitable belts and ropes shall be provided and maintained so as to be readily accessible and shall be periodically inspected in such manner as may be prescribed; and

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

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

- (b) by the insertion, immediately after subsection (2) thereof, of the following new subsection:—

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

- (c) by the substitution, for the marginal note there-
to, of the following new marginal note:—

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

8. Section 34 of the principal enactment is hereby amended as follows:—

- (a) by the insertion, immediately after subsection (3) thereof, of the following new subsections:—

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

(3B) (a) No steam boiler in use in any factory before the notified date shall be so used after a period of three months has

elapsed from the notified date, unless a certificate of registration is issued by the Chief Factory Inspecting Engineer in respect of such boiler on application made in that behalf.

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

(c) The Minister may by regulations—

- (i) prescribe the form of application and the form of certificate; and
- (ii) require that records be maintained in respect of each steam boiler in such form as may be prescribed.”;

(d) by the substitution, for subsection (6) thereof, of the following new subsection:—

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

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

(c) by the substitution, for subsection (13) thereof, of the following new subsection:—

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

(d) by the substitution, for subsection (14), thereof, of the following new subsection:—

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

Amendment of
section 35
of the
principal
enactment.

9. Section 35 of the principal enactment is hereby amended as follows:—

(a) by the substitution, for subsection (4) thereof, of the following new subsection:—

“(4) Every steam receiver and its fittings shall be properly maintained and shall be thoroughly examined by a person who is the

holder of a certificate issued in that behalf by the Commissioner, so far as the construction of the receiver permits, at least once in every period of twenty-four months.”; and

- (b) by the insertion, immediately after subsection (4) thereof, of the following new subsection:—

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

10. Section 36 of the principal enactment is hereby amended as follows:—

Amendment of
section 36
of the
principal
enactment.

- (a) by the substitution, for subsection (4) thereof, of the following new subsection:—

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

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

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

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

(b) by the insertion, immediately after subsection (4) thereof, of the following new subsection:—

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

Insertion
of new
section 36A
in the
principal
enactment.

11. The following new section is hereby inserted immediately after section 36, and shall have effect as section 36A, of the principal enactment:—

“ Gas
receivers

36A. (1) Every gas receiver shall—

(a) have marked upon it so as to be plainly visible the safe working pressure;

(b) in the case of a receiver connected with a compressing plant, either be so constructed as to withstand with safety the maximum pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded;

(c) be fitted with a suitable safety valve so adjusted as to permit the gas to escape as soon as the safe working pressure is exceeded;

(d) be fitted with a correct pressure gauge indicating the pressure in the receiver in pounds per square inch;

(e) be fitted with a suitable appliance for draining the receiver; and

(f) be provided with a suitable man-hole, handhole, or other means which will allow the interior to be thoroughly cleaned.

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

(b) Where by reason of the technical processes in the receiver it is necessary to replace the safety valve by a thermometer, the receiver shall be equipped with a safety plug which will burst when the pressure rises by not more than twenty-five *per centum* above the authorized pressure. Where for any technical reason it is not possible to install such plug, there may be installed on one of the appliances (pressure gauge or thermometer) a suitable signalling device that will begin to function when the pressure or temperature rises above the safe limit. Such signalling device shall be so constructed as to avoid the possibility of an explosion in the factory premises due to sparking in an explosive atmosphere or other such causes.

(3) In any case where explosive or poisonous gases may be introduced into or may form in the receiver, the irruption of such gases into workplaces shall be reliably prevented such as by means of pipes leading to the outside of the factory premises from safety valves and plugs

or other devices. Before poisonous gases are allowed to escape outside the factory premises they shall be rendered harmless by a suitable filter or other device.

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

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

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

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

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

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

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

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

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

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

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

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

(13) In this section the expression "gas receivers" means—

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

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

Replacement
of section
37 of the
principal
enactment.

12. Section 37 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“ Exceptions
as to steam
boilers, steam
receivers
and con-
tainers, air
and gas
receivers.

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

Amendment
of section
38 of the
principal
enactment.

13. Section 38 of the principal enactment is hereby amended as follows:—

(a) by the substitution, for subsection (2) thereof of the following new subsection:—

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

(b) by the insertion, immediately after subsection (6) thereof, of the following new subsection:—

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

(c) by the substitution, for subsection (7) thereof, of the following new subsection:—

“ (7) In this section, the expression “ gas-holder ” means a water-sealed gasholder.”.

14. The following new section is hereby inserted immediately after section 38, and shall have effect as section 38A, of the principal enactment:—

Insertion of new section 38A in the principal enactment.

“ Regulations.

38A. (1) The Minister may by regulations make provisions in respect of all matters relating to the issue of certificates referred to in sections 34, 35, 36, 36A and 38.

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

(a) for the issue of certificates and for their renewal annually;

(b) the form of application for certificates and the fees to be paid together with such applications;

(c) the qualifications or experience that an applicant should have;

(d) the conditions to be attached to certificates and the circumstances in which the Commissioner may cancel any certificate.”

15. Section 39 of the principal enactment is hereby amended by the repeal of subsection (7) of that section.

Amendment of section 39 of the principal enactment.

16. Section 41 of the principal enactment is hereby amended, by the insertion, immediately after subsection (7) thereof, of the following new subsection:—

Amendment of section 41 of the principal enactment.

“(7A) The Minister may by regulations provide for the maintenance and testing of fire warnings referred to in subsection (7).”

17. The following new section is hereby inserted immediately after section 42, and shall have effect as section 42A, of the principal enactment:—

Insertion of new section 42A in the principal enactment.

“ Regulations requiring the installation of fire fighting appliances.

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

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

Amendment of
section 43
of the
principal
enactment.

18. Section 43 of the principal enactment is hereby amended as follows:—

- (a) by the repeal of subsection (2) thereof; and
- (b) by the renumbering of subsection (1) as section 43.

Replacement of
section 44
of the
principal
enactment.

19. Section 44 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“ Power to
make orders
as to danger-
ous conditions
and practices.

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

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

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

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

(2) Where a complaint is or has been made under subsection (1) of this section, the court may, on application *ex parte* by any person appointed under section 100, and on receiving evidence that the use of any such part of the ways, works, machinery or plant, or as the case may be, the carrying on of any process or work or the doing of anything in such a manner as aforesaid, involves imminent risk of serious bodily injury, make an interim order prohibiting, either absolutely or subject to conditions, the use, carrying on or doing thereof until the earliest opportunity for hearing and determining the complaint."

20. The following new section is hereby inserted immediately after section 44, and shall have effect as section 44A, of the principal enactment:—

" Power to
make orders
as to safety
of factory
premises.

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

(2) The carrying on of any process or work may, by an order under subsection (1) of this section, be prohibited either indefinitely or until such steps have been taken as may be specified in the order to enable the process or work to be carried on with due regard to the safety, health

Insertion of
new section
44A in the
principal
enactment.

and welfare of the persons employed or without such a contravention as aforesaid, as the case may be; but any such order may be revoked or varied on the application by way of complaint of the occupier or owner of the premises.

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

Insertion of
new section
51A in the
principal
enactment.

21. The following new section is hereby inserted immediately after section 51, and shall have effect as section 51A, of the principal enactment :—

"Precautions
where
asphyxiant
or irritant gas
or vapour is
used or is
liable to be
present.

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

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

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

(a) unless a responsible person in the factory has certified in writing that effective measures have been taken to prevent such discharge; or

(b) unless—

(i) such person is wearing breathing apparatus approved by the Chief Factory Inspecting Engineer while carrying out such work;

(ii) such person is wearing a harness with a rope or ropes or tackle securely attached to the harness and the other end of such rope or ropes is so placed as to enable such person to be rescued in the event of any danger; and

(iii) the work is being carried out under the supervision of a responsible person in such factory.”

22. Section 53 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement
of section
53 of the
principal
enactment.

“ Protection
of eyes.

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

(2) The Minister may by regulations—

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

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

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

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

Insertion of new section 53A in the principal enactment.

23. The following new section is hereby inserted immediately after section 53, and shall have effect as section 53A, of the principal enactment:—

“ Protection from radiation and vibration.

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

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

Amendment of section 56 of the principal enactment.

24. Section 56 of the principal enactment is hereby amended by the repeal of subsection (3) thereof.

Amendment of section 58 of the principal enactment.

25. Section 58 of the principal enactment is hereby amended by the substitution, for subsection (1) thereof, of the following new subsection:—

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

Insertion of new sections 58A and 58B in the principal enactment.

26. The following new sections are hereby inserted immediately after section 58, and shall have effect as sections 58A and 58B, of the principal enactment :—

“ Prevention of noise.

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

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

Precautions
to be taken
in factories
where electricity
is generated
&c.

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

(a) shall be of such size and power as would be sufficient for the purpose for which it is intended;

(b) shall be so constructed, installed, protected, worked and maintained as to prevent, as far as practicable, danger to persons working in the factory; and

(c) shall conform to such other requirements as may be prescribed.

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

(a) the provision of safety equipment;

(b) the manner in which the examination of, and repairs to, electrical apparatus, fittings and equipment are to be carried out;

(c) requiring the exhibition of notices warning against danger;

(d) the precautions to be taken in the selection and erection of electrical equipment;

(e) the fencing and enclosure of equipment;

(f) the construction, maintenance and working of transformers and switch houses;

(g) the provision of electrical control gear;

- (h) safety measures to be taken with regard to switch boards;
- (i) electrical installations in explosive atmospheres;
- (j) the use of portable electrical hand tools and lights;
- (k) the earthing of equipment, apparatus and fittings;
- (l) the laying of bare conductors in buildings; and
- (m) the construction and maintenance of overhead service mains and consumers' conductors."

Amendment of
section 60
of the
principal
enactment.

27. Section 60 of the principal enactment is hereby amended as follows:—

(a) by the substitution, for subsection (1) thereof, of the following new subsection:—

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

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

(e) take for production at any investigation, inquiry or trial any machinery or article found in any factory.”;

(b) by the substitution, for subsection (2) thereof, of the following new subsection:—

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

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

(b) to retain one part for future comparison;

(c) to submit one part to the analyst;

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

(c) by the substitution, for subsection (3) thereof, of the following new subsection:—

“ (3) A certificate purporting to be a certificate by the Government Analyst or the head of such Government Laboratory or Institution as to the result of an analysis of a sample under this section shall in any proceeding under this Ordinance be admissible as evidence of the matters stated therein but either party may require the person by whom the analysis was made to be called as a witness.”; and

(d) by the substitution, for the marginal note to that section, of the following new marginal note:—

“ Power to photograph, take samples &c.”.

Replacement
of section
61 of the
principal
enactment.

28. Section 61 of the principal enactment is hereby repealed and the following new section substituted therefor:—

" Notification
of accidents.

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

- (a) causes loss of life to a person employed in that factory; or
- (b) disables any such person for more than three days from earning full wages at the work at which he was employed; or
- (c) makes any such person unconscious as a result of heat, exhaustion, electric shock or inhalation of irrespirable or poisonous fumes or gases,

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

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

(3) Where any accident to which this section applies occurs to a person employed and the occupier of the factory is not the actual employer of the person killed or injured, the actual employer shall, if he fails to report the accident to the occupier or manager or superintendent (in the case of an estate factory) immediately, be guilty of an offence and liable to a fine not exceeding fifty rupees.

(4) Where an accident occurs in the factory causing the death of any person employed therein, no person shall touch

or disturb or cause any other person to touch or disturb, without the permission of a Factory Inspecting Engineer, any machinery or any article which was involved in such accident, other than for the purpose of extricating or attending on any person concerned in such accident.”.

29. Section 63 of the principal enactment is hereby amended as follows:—

Amendment
of section 63
of the
principal
enactment.

(a) by the substitution, for subsection (1) thereof, of the following new subsection:—

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

(b) by the substitution, for subsection (3) thereof, of the following new subsection:—

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

Replacement
of section
66 of the
principal
enactment.

30. Section 66 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Duty of
authorized
factory
doctor to
investigate
and report
in certain
cases.

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

(a) upon cases of death or injury caused by exposure in a factory to fumes or other noxious substances, or due to any other special cause specified in instructions of the Commissioner as requiring investigation; and

(b) upon any case of death or injury which the District Factory Inspecting Engineer in pursuance of any general or special instructions of the Commissioner may refer to him for that purpose; and

(c) upon any case of disease of which he receives notice under this Ordinance.

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

Replacement
of section 77
of the
principal
enactment.

31. Section 77 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Certificate
of fitness
for employment
of young
persons.

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

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

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

(a) in respect of employment in all factories in the occupation of the same occupier, or such of them as may be specified in the certificate;

(b) subject to conditions as respects the nature of the work in which the person concerned is to be employed;

(c) subject to a condition that he shall be re-examined after an interval specified in the certificate.

(4) Where a certificate under this section in respect of any young person is issued by the authorized factory doctor upon any such condition as aforesaid, the young person shall not be employed except in accordance with the condition.

(5) Where the authorized factory doctor so directs in the certificate, any such condition as aforesaid shall, so far as relates to the employment in respect of which the certificate was issued or other employment in a factory in the occupation of the same occupier, continue to have effect after the young person has attained the age of sixteen; but unless such direction is made, the condition shall cease to have effect when the young

person attains the age of sixteen, and shall in any case cease to have effect when the young person attains the age of eighteen.

(6) Where a certificate under this section is subject to a condition requiring re-examination after an interval specified in the certificate, the authorized factory doctor, on such re-examination, may vary the certificate or may revoke the certificate as from such date as he may direct; and, if the certificate of a young person is revoked before he attains the age of sixteen, he shall not remain in any employment to which the certificate relates, and subsection (1) of this section shall thereafter have effect as if no certificate had been issued in respect of that young person.

(7) Where a certificate under this section in respect of any young person is refused or revoked, the authorized factory doctor shall, if requested to do so by the parent of the young person, give to the parent in writing the reasons for the refusal or revocation.

(8) The Minister may make regulations prescribing—

- (a) the manner in which, and the place at which, examinations under this section shall be conducted;
- (b) the form of certificates under this section;
- (c) the facilities to be afforded by occupiers of factories for the purpose of examinations under this section, including facilities for an authorized factory doctor to inspect any process in which a young person is to be employed;

(d) any other matter which the Minister may consider desirable for the purpose of giving effect to this section.

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

32. Section 78 of the principal enactment is hereby repealed and the following new section substituted therefor:—

" Power of
Factory
Inspecting
Engineer to
require
certificate
of fitness
for work.

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

Replacement
of section 78
of the
principal
enactment.

33. Section 79 of the principal enactment is hereby repealed and the following new section substituted therefor:—

" Parts of
buildings
let off as
separate
factories.

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

Replacement
of section 79
of the
principal
enactment.

(a) the provisions of this Ordinance specified in paragraphs (a) and (b) of subsection (2) of this section shall apply to any part

of the buildings used for the purposes of the factory but not comprised therein;

(b) subject to subsections (4) and (5) of this section, the owner of the building shall be responsible for any contravention of the provisions specified in the said paragraph (a) as so applying; and

(c) subject to subsection (5) of this section, the owner of the building shall be responsible, instead of the occupier, for any contravention as respects the factory, of the provisions specified in paragraph (c) of subsection (2) of this section.

(2) The said provisions are—

(a) the provisions of Part II with respect to cleanliness and lighting, and the provisions of Part III with respect to prime movers, transmission machinery, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines, the construction and maintenance of floors, passages and stairs and with respect to steam boilers, steam receivers and steam containers, air receivers and gas receivers;

(b) the provisions of Part III with respect to the power of a Magistrate's Court to make orders as to dangerous conditions and practices or as to safety of factory premises; and

(c) the provisions of Part II with respect to sanitary conveniences and the provisions of Part III with respect to hoists and lifts.

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

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

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

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

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

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

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

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

(6) The reference in section 44 of this Ordinance (both as it applies in relation to the factory and as it applies by virtue

of the foregoing provisions of this section) to the occupier shall be construed as referring to the occupier of the factory or to the owner of the building according as the one or the other is responsible in respect of the matters complained of.

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

Insertion of
new section
79A in the
principal
enactment.

34. The following new section is hereby inserted immediately after section 79, and shall have effect as section 79A, of the principal enactment:—

“ Tenement
factories.

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

(a) the provisions of Part II with respect to cleanliness, overcrowding, ventilation, temperature, lighting, drainage of floors, sanitary conveniences;

(b) the provisions of Part III with respect to provision and maintenance of fencing and safety appliances, the construction, maintenance, testing and examination of machinery or plant, the construction and maintenance of floors, passages and stairs, and the power of a Magistrate's Court to make orders as to dangerous conditions in factories;

(c) the provisions of Part IV;

- (d) the provisions of Part V with respect to the removal of dust or fumes and precautions to be taken when asphyxiant or irritant gas or vapour is used or is liable to be present;
- (e) the provisions of Part VI; and
- (f) the provisions of Part X.

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

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

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

- (a) of the provisions of Part II with respect to cleanliness, overcrowding, temperature, ventilation and lighting; or
- (b) of the provisions of Part V with respect to the removal of dust and fumes;

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

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

(6) The provisions of this Ordinance shall, as far as they are applicable and have not been applied by the foregoing

provisions of this section, apply to any part of a tenement factory which is not comprised within any of the separate factories as if that part were a factory and the owner were the occupier thereof.

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

Amendment
of section
80 of the
principal
enactment.

35. Section 80 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution, for paragraph (aa) relettered by Act No. 54 of 1961) of the following new paragraph:—

“(aa) the provisions of Part V with respect to precautions to be taken in factories where electricity is generated and to special regulations for safety and health;”

Amendment
of section
81 of the
principal
enactment.

36. Section 81 of the principal enactment is hereby amended by the substitution for subsections (1) and (2) thereof, of the following new subsections:—

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

(2) If in any institution carried on for charitable or reformatory purposes, to which this Ordinance applies the persons having the control of the institution (hereinafter referred to as the managers) satisfy the Commissioner that the only persons working therein are persons who are inmates of and supported by the institution, or persons engaged in the supervision of the work or the management of machinery, and that such work as aforesaid is carried on in good faith for the purposes of the support, education, training, or reformation of persons engaged in it, the Commissioner may by

order direct that so long as the order is in force this Ordinance shall apply to the institution subject to the following modifications:—

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

Provided that the Commissioner, on being satisfied that there is reason to believe that a contravention of the provisions of this Ordinance, or of any regulation or order made thereunder, is taking place in any such

institution, may suspend the operation of this paragraph as respects that institution to such extent as he may consider necessary.

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

Replacement
of heading
and section
84 of the
principal
enactment.

37. (1) The heading immediately after section 83 of the principal enactment is hereby repealed and the following new heading substituted therefor:—

“BUILDING AND OTHER CONSTRUCTION
WORKS”.

(2) Section 84 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

Building and
other
construction
works.

84. (1) Subject to the following provisions of this section, the provisions of this Ordinance specified in subsection (2) of this section shall apply to building and other construction works undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and to any line or siding which is used in connection therewith and for the purposes thereof and is not part of a railway or tramway.

(2) The said provisions are:—

- (a) the provision of Part I relating to registration and licensing;
- (b) the provisions of Part II with respect to sanitary conveniences;
- (c) the provisions of section 42A relating to the power of the Minister to make regulations;
- (d) the provisions of Part III with respect to chains, ropes and lifting tackle, cranes and other

lifting machinery, steam boilers, air receivers and gas receivers and the power of a Magistrate's Court to make orders as to dangerous conditions and practices;

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

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

(g) Part VI;

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

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

(j) Part XI;

(k) Part XIII;

(l) Part XIV;

(m) Part XV.

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

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

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

(6) Subject to subsection (7) of this section, any person undertaking any building operations or works of engineering construction to which this Ordinance applies shall, not later than seven days after the beginning thereof, serve on the District Factory Inspecting Engineer a written notice stating the name and postal address of that person, the place and nature of the operations or works, whether any mechanical power is used and, if so, its nature, the name of the local authority within whose administrative limits the operations or works are situated and such other particulars as may be prescribed.

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

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

38. Section 85 of the principal enactment is hereby repealed.

Repeal of section 85 of the principal enactment.

39. Section 90 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution, for paragraph (c) of that subsection, of the following new paragraph:—

Amendment of section 90 of the principal enactment.

"(c) a notice of the name and address of the authorized factory doctor for the factory;"

40. Section 93 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 93 of the principal enactment.

" Preservation of registers and records.

93. The general register and every other register or record kept in pursuance of this Ordinance shall be preserved and shall be kept available for inspection by any Factory Inspecting Engineer or by

the authorized factory doctor for at least two years, or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the register or record.”

Amendment of section 94 of the principal enactment.

41. Section 94 of the principal enactment is hereby amended by the insertion, immediately after subsection (1) thereof, of the following new subsection:—

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

Amendment of section 98 of the principal enactment.

42. Section 98 of the principal enactment is hereby amended by the substitution, for subsection (2) thereof, of the following new subsection:—

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

Amendment of section 99 of the principal enactment.

43. Section 99 of the principal enactment is hereby amended as follows:—

(1) by the substitution, for subsection (1) thereof, of the following new subsection:—

“(1) There shall be an Industrial Safety and Health Advisory Committee consisting of—

(a) the Chief Factory Inspecting Engineer, who shall be chairman; and

(b) four other members to be appointed by the Minister, of whom at least one member shall—

(i) represent the interests of the occupiers of factories,

- (ii) represent the interests of the persons employed in factories, and
 - (iii) be a specialist in the field of industrial safety and health.”;
- (2) by the substitution, for subsections (2), (3), (4) and (5) thereof, of the following new subsections:—

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

- (a) to advise the Commissioner on all matters incidental or relating to the safety, health and welfare of workers in factories and all other matters which the Commissioner may refer to the Committee;
- (b) to advise the Minister on all matters which the Minister may refer to the Committee;
- (c) to perform and exercise such duties and powers as may be prescribed by or under this Ordinance.

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

- (a) the term of office of members of the Committee appointed under paragraph (b) of subsection (1) and the manner in which any casual or other vacancy occurring among such members shall be filled;
- (b) the manner in which meetings of the Committee shall be convened, the conduct of business by the Committee and the procedure to be followed at meetings of the Committee;
- (c) the fees payable to members appointed under paragraph (b) of subsection (1).

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

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

(3) by the substitution, for the marginal note thereof, of the following new marginal note:—

“Industrial Safety and Health Advisory Committee.”.

Replacement of section 100 of the principal enactment.

44. Section 100 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Appointment of Chief Factory Inspecting Engineer and other officers.

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

- (a) a person by name or by office to be or to act as Chief Factory Inspecting Engineer;
- (b) a person by name or by office to be or to act as Deputy Chief Factory Inspecting Engineer;
- (c) such number of persons, by name or by office, to be or to act as Specialist Factory Inspecting Engineers as may be deemed necessary;
- (d) such number of persons, by name or by office, to be or to act as Specialist Inspecting Medical Officers as may be deemed necessary;
- (e) such number of persons, by name or by office, to be or to act as District Factory Inspecting Engineers as may be deemed necessary;
- (f) such number of persons, by name or by office, to be or to act as Factory Inspecting Engineers as may be deemed necessary; and

- (g) such number of persons, by name or by office, to be or to act as Inspecting Medical Officers as may be deemed necessary.”

45. Section 101 of the principal enactment is hereby amended as follows:—

Amendment
of section
101 of the
principal
enactment.

- (a) by the substitution, for subsection (1) thereof, of the following new subsection:—

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

- (a) to enter, inspect and examine by day or night any premises—
- (i) to which he has reasonable cause to believe this Ordinance applies;
 - (ii) which is stated in a notice under section 4 to be intended to be used as a factory;
 - (iii) which is adjacent to any premises referred to in sub-paragraphs (i) and (ii) and in which he has reasonable cause to believe there are stored explosive or inflammable materials or other substances which would expose the persons employed in the premises referred to in sub-paragraph (i) or (ii) to risk of injury;
 - (iv) to which this Ordinance does not apply but in which health or welfare facilities are provided

- by the occupier of any premises referred to in sub-paragraph (i) or (ii);
- (b) to enter any area of any premises or building which is or forms part of the access to any premises referred to in sub-paragraph (i) or (ii) of paragraph (a);
 - (c) to take with him one or more police officers if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
 - (d) to make any complaint or application to any Magistrate's Court under section 44 or section 44A and to appear in support of such complaint or application;
 - (e) to require the production of the registers, certificates, notices, and documents kept in pursuance of this Ordinance or any other enactment and to inspect, examine and copy any of them;
 - (f) to require the production of factory plans and drawings and circuit or wiring diagrams pertaining to machinery;
 - (g) to make such examination and inquiry as may be necessary to ascertain whether the provisions of Ordinance and the enactments for the time being in force relating to public health are complied with, so far as respects a factory and any person employed in a factory;
 - (h) to require any person whom he finds in a factory to give such information as it is in his power to give as to who is the occupier of the factory;
 - (i) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Ordinance, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the preceding two months

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

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

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

(b) by the substitution, for the marginal note to that section, of the following new marginal note:—

“ Powers of Chief Factory Inspecting Engineer and other officers.”.

46. Section 103 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 103 of the principal enactment.

“ Certificate of person appointed under section 100.

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

47. Section 104 of the principal enactment is repealed and the following new section substituted therefor:—

Replacement of section 104 of the principal enactment.

“ Appointment and duties of authorized factory doctor.

104. (1) Subject to any general directions of the Commissioner, the Chief Factory Inspecting Engineer may appoint a sufficient number of registered

medical practitioners to be authorized factory doctors for any of the purposes of this Ordinance, and may revoke any such appointment.

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

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

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

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

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

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

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

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

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

48. Part XII of the principal enactment is hereby repealed.

Repeal of
Part XII
of the
principal
enactment.

49. Section 109 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of
section 109
of the
principal
enactment.

" Fines for
offences for
which no
express
penalty
provided.

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

(a) in the case of a first offence, to a fine not exceeding one hundred rupees;

(b) in the case of a second offence (not being an offence in respect of a continuation of an offence

referred to in subsection (2), to a fine not less than one hundred rupees but not exceeding two hundred and fifty rupees;

(c) in the case of a third or subsequent offence (not being an offence in respect of a continuation of an offence referred to in subsection (2)); to a fine exceeding two hundred and fifty rupees but not exceeding five hundred rupees.

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

Amendment of section 119 of the principal enactment.

50. Section 119 of the principal enactment is hereby amended, by the insertion immediately after subsection (3) thereof, of the following new subsection:—

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

Repeal of section 121 of the principal enactment.

51. Section 121 of the principal enactment is repealed.

Replacement of section 125 of the principal enactment.

52. Section 125 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Application to factories belonging to the State.

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

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

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

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

53. Section 126 of the principal enactment is hereby amended in subsection (1) thereof, as follows:—

Amendment of
section 126
of the
principal
enactment.

(a) by the substitution, for paragraph (c) of that subsection, of the following new paragraph:—

"(c) the adapting for sale of any article;
or";

(b) by the insertion, immediately after paragraph (c) of that subsection, of the following:—

"(d) the slaughter of cattle, sheep, swine, goats, horses, asses or mules; or

(e) the confinement of the aforesaid animals while awaiting slaughter at other premises;

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

(c) by the substitution, for paragraph (vi) of that subsection, of the following new paragraph :—

“(vi) any premises in which the construction, reconstruction, lubrication or repair of locomotives, vehicles or other plant for use for transport purposes is carried on not being any premises used for the purpose of housing locomotives or vehicles where only cleaning or washing is carried out;”.

Amendment of
section 127
of the
principal
enactment.

54. Section 127 of the principal enactment is hereby amended as follows:—

(a) by the omission of the definition of “building operation”, and the substitution therefor, of the following definition:—

“ “building and other construction work” means the construction, erection, structural alteration, repair or maintenance (including excavation, painting, decorating, glazing, pointing and external cleaning of the structure), the demolition or dismantling of a building or other structure, the preparation for, and laying the foundation of, an intended building or other structure and all operations in connection therewith; the construction of any railway line or siding and the construction, structural alteration or repair (including excavation, pointing and painting) or the demolition of any subway, tunnel, trench, caissons, conduit, pipeline, road, wharf, dock, harbour, inland navigation, bridge, culvert, viaduct, water-works; reservoir, aqueduct, sewer, sewage work, gas-holder, trestle, pier, abutment, and all operations pertaining thereto, or any other construction, alteration, repair or removal work carried on in, about or over water and shall include such other works as may be specified by regulations made by the Minister;”;

(b) by the omission of the definition of "chief inspector" and the substitution therefor, of the following definition:—

“ Chief Factory Inspecting Engineer ” means the Chief Factory Inspecting Engineer appointed under section 100;”

(c) by the insertion, immediately after the definition of "degrees", of the following new definitions:—

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

“ District Factory Inspecting Engineer ” means the District Factory Inspecting Engineer appointed under section 100;”

(d) by the insertion, immediately after the definition of "driving-belt", of the following new definition:—

“ Factory Inspecting Engineer ” means a Factory Inspecting Engineer appointed under section 100;”

(e) by the omission of the definition of "inspector", and the substitution therefor, of the following definition:—

“ Inspecting Medical Officer ” means an Inspecting Medical Officer appointed under section 100;”

(f) by the insertion, immediately after the definition of "Inspecting Medical Officer", of the following new definition:—

“ local authority ” means any Municipal Council, Urban Council, Town Council or Village Council ;”

(g) by the insertion, immediately before the definition of "occupier", of the following new definition:—

“ notified date ” means such date as may be fixed for the purpose of this Ordinance by the Minister by publication in the *Gazette*;”

(h) by the insertion, immediately after the definition of "shop", of the following new definitions:—

" Specialist Factory Inspector
Engineer means a Specialist Factory
Inspecting Engineer appointed
under section 100;

" Specialist Inspecting Medical Officer "
means a Specialist Inspecting Medical
Officer appointed under section 100;

" tenement factory " means any premises
where mechanical power from any
prime mover within the close or curti-
lage of the premises is distributed for
use in manufacturing processes to
different parts of the same premises
occupied by different persons in such
manner that those parts constitute in
law separate factories; and

(i) by the omission of the definition of " work of
engineering construction ".

Change of
designation.

55. In the principal enactment there shall be substituted—

(a) for the expression " chief inspector of
factories " or the expression " chief inspec-
tor ", the expression " Chief Factory
Inspecting Engineer ";

(b) for each of the expressions " inspector for the
district ", " the inspector for every
district ", " an inspector for a district "
and " District Inspector of Factories ", the
expression " District Factory Inspecting
Engineer "; and

(c) for the expression " inspector ", the expression
" Factory Inspecting Engineer ";

and accordingly in any written law, written report,
notice, communication, from or other document every
reference to—

(i) the chief inspector of factories or the chief
inspector (denoting chief inspector of
factories) shall be read and construed as a
reference to the Chief Factory Inspecting
Engineer;

- (ii) the inspector for any district or District Inspector of Factories shall be read and construed as a reference to the District Factory Inspecting Engineer; and
- (iii) an inspector (denoting an inspector appointed under the principal enactment prior to the date of commencement of this Law) shall be read and construed as a reference to a Factory Inspecting Engineer.