



Occupational Health and Safety: An Analysis Of Provision Under The Factories Act,1948.

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Abstract

This study looks at the rules for worker health and safety under the Factories Act, 1948. The Act focuses on making sure factories are safe and healthy places to work. It includes guidelines for cleanliness, proper ventilation, handling dangerous materials, machine safety, and working hours. Employers are required to follow these rules, provide training, and regularly check for risks. While the Act covers many important areas, there are problems with enforcing the rules and updating them to match modern industry needs. This highlights the need for better enforcement and protection for workers.

Keywords: Health, Safety, Factories Act,1948, Workers Wealth, Industrial Legislation.

INTRODUCTION

The Factories Act of 1934 was the first law made to protect workers in factories, but it had many problems and weaknesses. Because of these issues, the rules in the Act were not working properly, and changes were needed. As a result, the Factories Act of 1948 was introduced.

The 1948 Act focused on improving the health, safety, and welfare of workers, which were not well-covered in the previous Act. The new law aimed to ensure workers had safer and healthier working conditions. However, the definition of a factory was still limited, and the Act did not fully address the needs of a large number of workers in different industries. Employers have a responsibility to take care of the health and safety of their workers, especially as the number of industries grows rapidly. Inspectors play an important role in checking whether factories are following the rules for health and safety. Unfortunately, many factories fail to provide good working conditions, which can cause serious diseases and harm to workers.

Ensuring the safety and health of workers is essential. Employers must fulfill their duties and not try to avoid their responsibilities. Proper implementation of safety and health provisions is necessary to protect workers from dangers and improve their quality of life.

DEFINITION OF FACTORY

It applies to all factories employing 10 or more workers with power or 20 or more workers without power. Occupational health and safety provisions under this Act are aimed at fostering a safe working environment by addressing hazards, providing health services, and ensuring worker welfare.

Objectives of the Factories Act, 1948

The Factories Act serves several purposes related to occupational health and safety:

1. To ensure workers' physical, mental, and social well-being in the workplace.
2. To protect workers from hazardous conditions by prescribing minimum safety standards.
3. To promote a work environment conducive to productivity without compromising safety.

The Act lays down detailed provisions for health, safety, and welfare, ensuring that employers adhere to a framework that minimizes risks to employees' lives and health.¹

HEALTH PROVISIONS SEC (11_20):

The main focus of Factories Act is towards the Health benefits to the workers. Health Chapter of the Act contains specification from Section 11 to 20. Detailed information of the sections of is provided as under:

Cleanliness (Sec.11)

- Accumulation of dirt shall be removed daily.
- The floor of every workroom shall be cleaned at least once in a week.
- All inside walls, partitions, ceilings must be repainted or varnished once in every five years.
- All doors and windows frames other wooden or metallic framework and shutters shall be kept painted or varnished.

Disposal of Wastes & Effluents (Sec.12)

- Every occupier of a factory shall make effective arrangements for the treatment of wastes and effluents due to the manufacturing process carried on in the factory so as to render them innocuous and for their disposal.

Ventilations & Temperature (Sec.13)

- Adequate ventilation by the circulation of fresh air.
- Reasonable temperature must be maintained.

Dust and Fume (Sec.14)

- The exhaust fumes of internal combustions engines must be conducted outside of the factory.
- Injurious or offensive dust and fumes must be inhaled or accumulated.

Artificial humidification (Sec.15)

(1) In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules,

- prescribing standards of humidification;
- regulating the methods used for artificially increasing the humidity of the air;
- directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;
- prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

For example: In certain industries like cotton, textile, cigarette, etc., higher degree of humidity is required for carrying out the manufacturing process. For this purpose, humidity of the air is artificially increased. This increase or decrease in humidity adversely affects the health of workers.

Overcrowding (Sec.16)

- The overcrowding affects the workmen not only in the discharge of duties but also their health.
- The working space should be 9.9 cubic meters of space per worker in every workroom before the commencement of this Act.
- And after the commencement of this Act, the space per worker is 14.2 cubic meter.
- Roof shall be 5 mts (14ft.) above the floor.

¹ Dr.V.G.Goswami_ Law and Industrial Laws; Central Law Agency; 9th Edition 2011; p.348.

Lighting (Sec.17)

- There shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both, in every part of the factory.
- In every factory all glazed windows and skylights be used and workrooms shall be kept clean on both the inner and outer surface.
- In every factory effective provision shall, so far as is practicable, be made for the prevention of glare, either directly from a source of light or by reflection from a smooth or polished surface;

Drinking Water (Sec.18)

- The place of drinking water shall not be situated within six meters of any washing place, urinal, spittoon, open drain or any source of contamination.
- Effective arrangements shall be made to provide a sufficient supply of wholesome drinking water.

Latrines and Urinals (Sec.19)

- Sufficient latrine and urinal accommodation of prescribed types shall be provided and conveniently situated to make them accessible to workers at all times while they are at the factory.
- It should be adequately lighted, ventilated.
- Latrines and urinals must be kept in a clean and sanitary condition.

Spittoons (Sec.20)

- There should be sufficient number of spittoons in convenient place.
- It must be maintained in a clean and hygienic condition.
- No persons shall spit expect in the spittoons.²

Fertility Limited v. Union of India, 1997

There is a factory in Bihar where all facilities of spittoons are provided but workers avoid it and not use that spittoon. Workers spit anywhere due to which factory area is destroyed. The manager of the factory imposes fifty rupees fine which may extend to 3000 rupees. The workers of the factory file a case against the factory. Court passed the order and stated that the factory was not that much of a fine. Fine is imposed according to the provision of section 20 which is rupees five.³

The Factories Act, 1948 also provides provisions relating to safety measures for the workers employed herein. This is to ensure safety of workers working on or around the machines. The detailed information on each provision relating to safety measures is as under:

SAFETY PROVISIONS SEC(21-41):

Fencing machinery According to **Section 21** of the Factories Act 1948, every dangerous machinery in a factory must be securely fenced to avoid accidents.

The section provides for fencing the following machineries while they are in use

- (i) every moving part of a prime mover and every flywheel connected to a prime mover whether the prime mover or flywheel is in the engine house or not;
- (ii) the headrace and tailrace of every water-wheel and water turbine.
- (iii) the following should be securely fenced
 - (a) every part of an electric generator, a motor or rotary convertor.

² P.L. Malik_ Factories Act, 1948; Eastern Book Company; 2000 Edition; pp.25_31.

³ <https://paycheck.in/labour-law-india/health-and-safety/heath-safety-of-workers>

(b) every part of transmission machinery

(c) every dangerous part of any other machinery.

Sec 22: Work On Or Near Machinery In Motion

- Examination shall be carried out only by specially trained male workers Should wear tight fitting clothes
- No woman or young person shall be allowed to clean, lubricate or adjust any part of prime mover.
- Employment of young persons on dangerous machines

(Sec.23): This section provides that young person shall be required or allowed to work at any machine to which he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and-

(a) has received sufficient training in work at the machine,

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

Floors, stairs and means of Access(sec-32)

According to Section 32 Floors, stairs and means of Access must be of sound construction and shall be free from obstructions, causing persons to slip.

Protection of eyes (Section 35) - In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves -

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process.

(b) risk to the eyes by reason of exposure to excessive light, the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons Employed on, or in the immediate vicinity of, the process.

Precautions against dangerous fumes, gases etc(sec-36)

(1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No person shall be required or allowed to enter any confined space as is referred to in sub-section (1), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless -

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself that space is reasonably free from dangerous gas, fume, vapour or dust: or

(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.

Explosive or inflammable dust, gas, etc (sec37)

1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measure shall be taken to prevent any such explosion by

a) effective enclosure of the plant or machinery used in the process;

b) removal or prevention of the accumulation of such dust, gas, fume or vapour;

c) exclusion or effective enclosure of all possible sources of ignition.

Section38: Precautions In Case Of Fire:

(a) Safe means of escape for all persons in the event of a fire

(b) Necessary equipment and facilities for extinguishing fire

➤ Workers are familiar with the means of escape

➤ Free passage-way giving access

➤ Workers should be trained

Safety officers (sec-40)

This section makes provision for the appointment of for safety officer in the factories, where 1000 or more workers are employed or the State government by notification in official gazette may require the occupier, carrying on dangerous and hazardous nature of manufacturing process to appoint safety officers.

Power to make rules to supplement this chapter(sec-41)

Section 41 of the Factories Act, 1948 empowers the State Government to make any rules to supplement this chapter.⁴

Bayer (India) Limited and others v. the State of Maharashtra, AIR 1995 Bom 290 (India) In this case, the court held that those industries manufacture chemicals and hazardous substances. It sometimes causes danger to the life of workers. The judge said that the main focus of this Act is to protect the life and health of the worker. Anything which causes danger to the life of a worker then the court has an inherent power to prohibit the activity of the factory.

JK Industries Limited Etc v. The chief inspector of Factories, 996 (9) TMI 503 (India) It was a landmark Judgement because, after that case the Factories Act, 1948 come into enforcing. Before it, we have Factories Act, 1934 but after that case court feels the necessity to bring the changes in health and safety provision. If we see that it is the time where the growth of factories or industry is increasing day by day. This Act is a welfare Act the main purpose of this Act is to cease the exploitation of workers.

Lanco Anpara power Ltd v. State of Uttar Pradesh and others, Civil Appeal No. 6223 of 2016 It was held that in this case that the superior purpose of this Act is to the welfare of the weaker section. When any court gives order then keep in mind and also the occupier and employer of the factory.⁵

WELFARE PROVISIONS SEC (42_49)

The welfare measures involve three major aspects which are - occupational health care, suitable working time and appropriate salary. It refers to the physical, mental, moral, and emotional well-being of an individual. The welfare measures aim at integrating the socio-psychological needs of employees, the unique requirements of a particular technology, the structure and processes of the organization and the existing socio-cultural environment

WASHING FACILITIES(SEC-42)

- (a) Firstly, provide and maintain adequate and suitable facilities for washing for all the workers in the factory
- (b) Secondly ,provide separate and adequately screened facilities separately for men and women.
- (c) Thirdly, make accessible all the facilities to all the workers.

The state govt prescribes the standards.

Facilities for storing and drying clothes(SEC-43)

1. This section contests some powers with the State Government. It states that the State Government has the powers to direct the factories regarding the place of storing the clothes of the workers.
2. Moreover, they can also direct them regarding the manner of drying the clothes of the workers. It applies to the situation when workers are not wearing their working clothes.

Facilities for sitting(SEC-44)

There are various kinds of jobs in a factory. Some of them require the workers to stand for a longer Period of time. There is no doubt that human power to stand has limits. Looking at such case, this section states:

(a) Firstly, the factory should provide suitable arrangements for sitting for the workers. This is important because whenever the worker gets some free time, he/she may be able to take some rest by sitting. This will also enhance their efficiency.

(b) Secondly, if the Chief Inspector finds that any worker can do his work more efficiently while sitting

Then he can direct the factory officials to arrange sitting arrangements for him.

First-aid-appliance(SEC-45)

Injuries are somehow an inescapable part of life for the workers especially working in the factories. Looking at the safety and welfare of the workers this section provides that:

The factory should provide and maintain proper first-aid boxes at every workroom. Under this Act, the number of boxes should not be less than one for every 100 or 50 workers. Moreover,the first-aid boxes should have all the relevant contents according to the Act.

➤ There should be nothing except the prescribed contents in a first-aid box.

➤ Each box should be under control of a first-aid in-charge who will handle all its requirements and its utilization. The in-charge should be an expert in First-aid field.

⁴ Dr.S.K.Puri_ An Introduction to Labour and Industrial Laws; 9th Edition. Reprint 2010;pp.194_196.

⁵ <https://www.ourlegalworld.com/health-and-safety-provisions-under-factories-act-1948/>

➤ In case the number of workers exceeds 500, then the factory should arrange an 'Ambulance Room' with the availability of all necessary equipment.

Canteens(SEC-46)

(a) Every factory where the number of workers exceeds 250, then the State Government may direct the factory owners to provide and maintain a canteen for the workers.

(b) Moreover, the government may lay down certain conditions in the construction of canteen, like:

1. the standard in respect of construction, accommodation, furniture and other equipment of the canteen
2. the foodstuffs to be served therein
3. the date by which such canteen shall be provided
4. the constitution of a managing committee for the canteen.

Shelters, rest-rooms, and lunch-rooms(SEC-47)

This section states:

(a) If the number of workers in a factory crosses 250, then the factory owners should construct and maintain shelters, rest-rooms and lunch rooms for the workers. It allows the workers to eat the food which they bring along with them.

(b)The shelters, rest-rooms and lunch rooms should be properly ventilated and lighted.

(c) The State Government may prescribe the standards, in respect of construction accommodation, furniture, and other equipment.

Creche's(SEC-48)

Due to workforce diversity nowadays, women's participation is increasing in all the sectors especially the industrial sector.

One of the factors that stop women to work in factories or any other sector is lack of care for their children during their working hours. In order to solve this problem and increase the engagement of women in factories, section 48 states:

(a) Where numbers of women workers exceed 30, then the factory should arrange a special room for the worker's kids who are below the age of 6 years.

(b) The room should be properly lighted and ventilated

Welfare officers(SEC-49) This states that every factory where in five hundred or more workers are ordinarily employed the occupier shall employ a prescribed number of Welfare officers.⁶

Provisions relating to Offences and Penalties under the Factories Act, 1948 for contravention of laws relating to safety and health of the workers

- For contravention of the provisions of the Act or Rules- imprisonment upto 2 years or fine upto Rs.1,00,000 or both.
- Contravention causing death or serious bodily injury - fine not less than Rs.25,000 in case of death and not less than Rs.5000 in case of serious injuries.
- Continuation of contravention - imprisonment upto 3 years or fine not less than Rs.10,000 which may extend to Rs.2,00,000.
- On contravention of Chapter IV pertaining to safety or dangerous operation.

General Manager, Wheel & A. P, Bangalore v. State of Karnataka (1996) .It was held in this case that the requirement of obtaining sanction to prosecute is mandatory and taking cognizance of an offence in the absence of sanction cannot be allowed to stand and has to be quashed.

Provincial Government v. Ganpat, AIR 1943 Nag 243 .It was held in this case where the occupier or the manager of the factory admits the guilt under Section 92 of the Act, but alleges the clerk of the Factory to be the actual offender, the onus of establishing the innocence is on such occupier or the manager as the case maybe.⁷

CONCLUSION

⁶ Dr.V.G.Goswami_ Law and Industrial Laws; Central Law Agency; 9th Edition 2011;pp.443_454.

⁷ <https://www.legalserviceindia.com/legal/article-149-the-factories-act-1948.html>

Factories Act works with a primary object to protect workers employed in the factories against industrial and occupational hazards. For that purpose, it seeks to impose upon the owners or the occupiers certain obligations to protect works unwary as well as negligent and to secure for them, employment in conditions conducive to their wealth, health and safety from accidents.

SUGGESTIONS

1. Managing safety and health is an integral part of industry. Industry need to do a risk assessment to find out about the hazards and risks in their workplace(s) and put measures in place to effectively control them to ensure these hazards and risks cannot cause harm to workers.
2. The employer, in consultation with workers and their representatives, should set out in writing an OSH policy to which they are committed and which is communicated to all workers.
3. The employer should make arrangements for workers and their safety and health representatives to have the time and resources to participate actively in the processes of organizing, planning and implementation, evaluation and action for improvement of the OSH management system.
4. The employer should ensure, as appropriate, the establishment and efficient functioning of a safety and health committee and the recognition of workers' safety and health representatives, in accordance with national laws and practice.
5. The employer should have, or should have access to, sufficient OSH competence to identify and eliminate or control work-related hazards and risks, and to implement the OSH management system.
6. Hazards and risks to workers' safety and health should be identified and assessed on an ongoing basis. Preventive and protective measures should be implemented.

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