

## FACTORY ACT

### CHAPTER 118

#### PART 1

##### Interpretation

**1.** In this Act

“employer” means a person who in his own behalf, or as the manager, superintendent, overseer or agent, has charge of a factory, shop or office building and employs persons in it;

“factory” means a building, premises, workshop, structure, room or place where

- (a) any manufacturing process or assembling in connection with the manufacturing of goods or products is carried on;
- (b) thermal, hydraulic, electrical or other form of energy or power is used to move or work any machinery or device in preparing, inspecting, manufacturing or finishing, or in a process incidental to the preparing, manufacturing or finishing, of an article, substance, material, fabric or compound, or is used to aid the manufacturing process carried on there;
- (c) manual labour is exercised by way of trade or for purposes of gain in or incidental to the making of any goods, substance, article or thing, or any part of them, or the altering, repairing, ornamenting, finishing, storing, cleaning, washing or adapting for sale of any goods, substance, article or thing, and includes a plant used for the maintenance of aircraft, locomotives and vehicles used for transport purposes;

“inspector” means an inspector appointed under this Act, and includes the chief inspector;

“office” includes a building or that part of a building occupied and used for office purposes;

“owner” means the person entitled in his own right or as a trustee, mortgagee in possession, guardian, committee, agent or otherwise to receive the rents, issues and profits of premises used as a factory or office so far as the rents, issues and profits are not payable solely in respect of the use or occupancy of land apart from any buildings or other improvements erected or situate on it;

“shop” means a place where

- (a) goods are handled or exposed or offered for sale; or
- (b) services are offered for sale.

1966-14-2.

##### Parts of factory

**2.** (1) A part of a factory may be taken to be a separate factory.

(2) A place used as a dwelling shall not be deemed to form part of a factory.

(3) Where a place situated in the close or precincts forming a factory is solely used for a purpose other than the manufacturing process or handicraft carried on in the factory, the place shall not be deemed to form part of that factory, but shall, if otherwise it would be a factory, be deemed to be a separate factory.

(4) A place shall not be excluded from the definition of a factory by reason only that the place is in the open air.

1966-14-3.

### **Indirect employment**

**3.** Where an owner, occupier or tenant of a building, premises, workshop, structure, room or place, who has the right of access to it and control of it, lets, or hires out, or contracts for, work or labour to be done in it by any other person, and the other person engages or employs in it a person in or for the carrying out or performing of the work or labour, that person shall be considered and taken as being in the service and employment of the owner, occupier or tenant.

1966-14-4.

### **Submission of plans and specifications**

**4.** (1) No person shall commence to construct or reconstruct a building or alter an existing building that is a factory before

- (a) submitting in duplicate to an inspector the plans and specifications of the building or proposed alteration;
- (b) supplying additional information an inspector requires; and
- (c) receiving from an inspector his approval certifying that the plans and specifications comply with this Act and regulations.

(2) The construction, reconstruction or alterations may be proceeded with only in accordance with the plans and specifications approved by an inspector.

1966-14-5.

### **Deemed employees**

**5.** If a person is found in a factory except

- (a) at mealtimes;
- (b) while all the machinery of the factory is stopped; or
- (c) for the sole purpose of bringing food to the persons employed in the factory,

the person shall, until the contrary is proved, be deemed for the purpose of this Act to have been then employed in the factory.

1966-14-6.

### **Person who works in factory deemed employed in it**

**6.** A person who works in a factory, whether for wages or not, either in the manufacturing process or handicraft, or in cleaning a part of the factory used for a manufacturing process or handicraft, or in cleaning or oiling a part of the machinery, or in any other kind of work incidental to or connected with the manufacturing process or handicraft or in connection with the article made, or otherwise the subject of the manufacturing process or handicraft, shall, except as otherwise provided by this Act, be deemed to be employed in the factory within the meaning of this Act.

1966-14-7.

**Persons working at repairs**

**7.** This Act does not apply to a mechanic, artisan or labourer who is not an employee of an employer having charge of a factory, shop or office and who is working only in repairing either the machinery in or any part of the factory, shop or office.

1966-14-8.

**Apprentices**

**8.** For the purpose of this Act, an apprentice is deemed to work for hire.

1966-14-9.

**Numbers employed**

**9.** In computing the number of employees in a factory, shop or office for the purpose of this Act, the maximum number working at any one time on a shift shall be the basis of computation.

1966-14-10.

**Private houses**

**10.** This Act does not apply where persons are employed at home; that is to say, a private house, room or place where, though used as a dwelling might, by reason of the work carried on there, be a factory within the meaning of this Act, and in which the only persons employed are members of the same family dwelling there.

1966-14-11.

**Powers and duties of inspectors**

- 11.** For the purposes of this Act and the regulations, an inspector has power to
- (a) enter, inspect and examine at all reasonable times, by day or night, any place that he has reasonable cause to believe to be a factory, shop or office;
  - (b) require the production of any register, certificate, notice or document required by this Act or by regulation to be kept, and to inspect, examine and copy it;
  - (c) make the examination and inquiry necessary to ascertain whether the provisions of this Act are complied with;
  - (d) examine verbally, either alone or, at his discretion, in the presence of any other person, every person whom he finds in a factory, or whom he has reasonable cause to believe to be, or to have been, within the then last 2 preceding months, employed in a factory, and to require the person to be so examined and to sign a declaration of the truth of the matters for which he is examined;
  - (e) when he deems it necessary, take with him into any premises a medical practitioner, medical health officer or public health inspector;
  - (f) alone, or in conjunction with another person possessing special or expert technical knowledge or skill, as the inspector designates, make examinations, tests and inquiries, and take samples necessary to ascertain whether this Act and the regulations are being complied with;
  - (g) administer an oath and to summon any person to give evidence in connection with an investigation, inquiry or examination;

- (h) exercise other powers necessary to carry this Act and the regulations into effect.

1966-14-12.

#### **Employer to aid inspector**

**12.** The employer and his agents and servants shall furnish the means required by an inspector necessary for entry, inspection, examination, inquiry or the exercise of his powers under this Act.

1966-14-13.

#### **Obstructing inspector**

**13.** Every person who

- (a) wilfully delays an inspector in the exercise of any power under section 11 or 12;
- (b) fails to comply with a requisition or summons of an inspector in pursuance of either of those sections;
- (c) fails to produce a certificate or other document which he is required by this Act or regulations to produce; or
- (d) conceals or prevents, or attempts to conceal or prevent, an employee from appearing before or being examined by an inspector

shall be deemed to obstruct an inspector in the execution of his duties under this Act.

1966-14-14.

#### **Special authority to enter dwelling**

**14.** (1) Before an inspector enters a room or place actually used as a dwelling as well as for a factory, he shall, unless entry is made with the consent of the occupier, obtain from a justice a warrant referred to in subsection (2).

(2) The justice, if satisfied by information on oath or statutory declaration that there is reasonable cause to suppose that this Act or the regulations are contravened in the room or place, shall grant a warrant under his hand authorizing the inspector named in it, at any time not exceeding one month from its date,

- (a) to enter the room or place named in the warrant; and
- (b) to exercise in it the powers of inspection and examination conferred by this Act;

and the provisions of this Act with respect to obstruction of the inspector are applicable.

1966-14-15.

#### **Inspector to produce certificate**

**15.** An inspector shall be furnished with a certificate of his appointment under the hand of the Minister of Labour, and shall, if requested, produce the certificate on entering any premises.

1966-14-16.

#### **Inspector incompetent to give certain testimony**

**16.** An inspector is not competent to give testimony in any civil cause, matter or proceeding

- (a) relative to anything which he has seen or done, or with regard to information he has obtained, opinion he has formed, or investigation he has made for the purpose of this Act; or
- (b) as an expert witness with regard to any subject or matter whatsoever.

1966-14-17.

### **Employers occupying same premises**

**17.** Where 2 or more employers occupy or use the same room or premises as a factory, shop or office and employ in the aggregate 4 persons or more, no one of the employers employing so many as 4, each of the several employers is responsible for providing proper and sufficient washrooms and other requirements as set forth in this Act, which requirements apply to each and every employer as if they were partners.

1966-14-18.

### **Notice to inspector of occupation of factory**

**18.** Every person shall, within one month after he begins to occupy a factory, transmit to an inspector, in the form the inspector requires, a notice containing

- (a) the name of the factory;
- (b) the location of the factory;
- (c) the mailing address of the factory;
- (d) the nature of the work to be carried on in it;
- (e) the number of workers employed;
- (f) the nature and the amount of the motive power in it; and
- (g) the name of the person or firm under which the business of the factory is to be carried on.

1966-14-19.

### **Safety measures**

**19.** Every employer shall, during working hours, keep the factory, shop or office and all passages and sanitary conveniences used in connection with it and under his control properly lighted and heated so that they are not injurious to the health, safety and comfort of the employees, and the owner of every building used as a factory, shop or office shall at all times keep the building or the parts of it under his control or used in common by the tenants or occupants of the building properly lighted and heated so as not to be injurious to the health, safety or comfort of persons employed in the building or using or having access to it.

1966-14-20.

### **Protection of employees**

**20.** (1) Where, in the opinion of an inspector, any place, matter or thing, or any part of them, in a factory, shop or office is a source of danger to the health or safety of persons employed in them or having access to them, he shall give notice in writing to the employer or owner directing him, within the time specified in the notice, to take the measures prescribed

- (a) for guarding the place, matter or thing; or
  - (b) to protect the safety or health of any person against danger.
- (2) Where an inspector gives a direction under subsection (1),
- (a) the use of the place, matter or thing, or any part of it, may be discontinued until the direction of the inspector has been complied with; and

- (b) the inspector may affix to the place, matter or thing, or any part or it, a copy of the direction, and no person shall remove the direction until authorized by him.
  - (3) Any factory, shop, office or office building in which the employer or owner
    - (a) fails to comply with an inspector's direction; or
    - (b) permits or fails to prevent any place, matter or thing, or any part of it, to be used in contravention of this sectionis deemed to be operated so that the safety of the persons employed in it is endangered.
- 1966-14-21.

### Premises

**21.** No person shall operate a factory, shop or office in which there exists any condition that endangers the health or safety of persons employed in it, and this section applies whether or not there is a contravention of another section of this Act.

1966-14-22.

### Notice of explosion

**22.** Where an explosion occurs in a factory, whether any person is injured or not, the employer shall, within 24 hours after the explosion, advise an inspector in writing of the explosion.

1966-14-23.

### Restrooms

**23.** (1) In a factory, shop or office where 10 or more female employees are employed, the employer shall provide a restroom or other space affording reasonable privacy, together with one or more couches or cots, and chairs, satisfactory to the inspector.

(2) An inspector may exempt an employer, either in whole or in part, from the application of subsection (1).

(3) Where the employer fails or neglects to comply with this section, the factory, shop or office is deemed to be operated in contravention of section 21.

1966-14-24.

### Washrooms

**24.** (1) The owner of every building used as a factory, shop or office shall provide separate washrooms for male and female employees with separate approaches to them, and signs clearly indicating for which sex the washrooms are provided.

(2) The owner of every building used as a factory shall ensure that each washroom is equipped with

- (a) one water closet and one urinal for every 25 male employees or fraction of 25, and one water closet for every 9 female employees or fraction of 9, except where the maximum number of employees on any shift is less than 6, when one water closet only is required; and
- (b) one washbasin or washing facilities satisfactory to the inspector, connected to a source of hot and cold water, for every 15 employees or fraction of 15.

(3) The owner of every building used as a shop or office shall ensure each washroom is equipped with

- (a) one water closet for 9 employees or fraction of 9, 2 water closets for 10 to 24 employees, and thereafter one water closet for each additional 25 employees, except that when more than one water closet is required in a washroom for male employees, urinals may be substituted for half the required number; and
  - (b) washbasins in accordance with the requirements of the current National Building Code of Canada.
- (4) The owner of every building used as a factory, shop or office is responsible for the remedying of any effluvia arising from a drain or defective plumbing and for repairs required to keep the building in a safe and habitable condition.
- (5) The owner of every building used as a factory, shop or office shall provide a supply of safe drinking water for each tenant or occupier.

1966-14-25.

### Sanitary requirements

- 25.** (1) Every employer in charge of a factory or shop shall
- (a) keep the factory or shop in a clean and sanitary condition and free from any effluvia arising from refuse of any kind;
  - (b) provide for removal, at least daily, of all accumulations of dirt and refuse from the floors, work tables, passages and stairways;
  - (c) keep all windows and skylights, as far as practicable, clean on both the inner and outer surfaces and free from obstructions;
  - (d) ensure that toilet rooms, washrooms, water closets, urinals and other sanitary conveniences are kept in good repair and in a sanitary condition;
  - (e) provide for the securing and the maintaining of a reasonable temperature in each workroom, without causing conditions injurious to the health or comfort of persons employed in it;
  - (f) allow at least 8.5 m<sup>3</sup> of room space for each employee employed;
  - (g) provide and maintain for the use of the employees a convenient and sufficient supply of
    - (i) individual clean towels;
    - (ii) soap;
    - (iii) toilet paper; and
    - (iv) in each toilet room used by females a suitable covered receptacle;
  - (h) provide adequate means for the proper draining of floors so that the health of persons employed will not be endangered;
  - (i) provide safe drinking water
    - (i) through a fountain with a guarded faucet or similar faucet if the supply is from a water cooler with drain; or
    - (ii) through a tap, in which case there shall be a sufficient supply of individual drinking cups,which drinking faucet or tap shall be at least 2.5 m distant from any closet or urinal; and
  - (j) provide suitable accommodation for
    - (i) clothing not worn by employees during working hours; and
    - (ii) work clothes which must be dried or be cleaned or be kept separate from street clothes due to the presence of poisonous, infectious or irritating materials.

(2) In every room in which a substantial portion of the work is done, a temperature of not less than 18.3°C measured 1.5 m above the floor, unless otherwise authorized by an inspector, is deemed to be a reasonable temperature.

(3) An inspector may, by written notice to the employer, prescribe a standard of reasonable temperature for any room in a building with respect to both the minimum and maximum temperatures, having regard to the health and comfort of the employees.

(4) If, owing to the nature of the manufacturing process being carried on in the factory, excessive heat is created, the owner shall cause to be installed, maintained and operated special means or appliances the inspector may direct to reduce the excessive heat.

(5) Every employer shall provide every workroom in a factory with proper and sufficient means of ventilation, natural or mechanical, or both, as may be necessary to maintain the same at all times during working hours.

(6) Every employer shall equip all machinery creating dust or impurities in quantities tending to injure the health of employees with proper hoods and pipes connected to an exhaust fan of sufficient capacity and power to remove the dusts and impurities, and the fan shall be kept running constantly while the machinery is in use. Where an inspector decides that the apparatus is unnecessary for the health and welfare of the employees, or that other means of protection may be provided to safeguard the health and welfare of the employees against injurious dusts or impurities, the inspector may exempt the machinery from the application of this subsection or prescribe other requirements that will effectuate the intent of this section.

(7) If dust, gases, fumes, vapours, fibres or other impurities are generated or released in the course of an operation carried on in any workroom of a factory in quantities tending to injure the health of the employees, the employer shall provide suction devices at their point of origin, where practicable, to remove the impurities from the workroom by means of proper hoods connected to conduits and exhaust fans, and the fans shall be kept running constantly while the impurities are being generated or released.

(8) Every employer shall provide exhaust systems handling gases, vapours, fumes or any substance, and discharging to the outer air, with air cleaning devices to remove air contaminants prior to the discharge to the outer air, unless otherwise approved by an inspector.

(9) Every employer shall make effective provisions for securing and maintaining sufficient and suitable natural or artificial lighting in every part of a factory in or to which employees are working or have access.

(10) Every employer shall cause the walls and ceilings of every workroom, lunchroom, restroom and washroom to be kept adequately painted, unless an inspector otherwise directs, and an inspector may direct the employer to paint those rooms at any time.

1966-14-26, 1977-53-1

### **Sanitary requirements in offices**

**26.** (1) Every employer in charge of an office shall

- (a) keep the office in a clean and sanitary condition, properly ventilated, heated and lighted, so that it is not injurious to the health or comfort of the persons employed in it;
- (b) not allow overcrowding of persons employed in the office while work is being carried on in it;



- (c) provide and maintain for the use of the employees in the office a convenient and sufficient supply of
  - (i) individual clean towels;
  - (ii) soap;
  - (iii) toilet paper; and
  - (iv) in each toilet room used by females a suitable covered receptacle; and
- (d) provide a satisfactory supply of safe drinking water.

(2) Where in an office building the water closets, urinals or other conveniences are not situate in that part of the building occupied by and under the control of an employer, the owner shall keep them in good repair and in sanitary condition.

(3) Where in an office building the water closets, urinals or other conveniences are situate in that part of the building occupied by and under the control of a separate employer, that separate employer shall keep them in good repair and in sanitary condition.

(4) The owner of every office building shall keep all parts of it that are under his control and used in common by occupants of it in a condition of cleanliness and sanitation that will not be injurious to the health of persons employed in or using or having access to the building.

1966-14-27

### **Compliance with regulations**

**27.** Every owner and employer shall comply with all regulations made under this Act that apply to him or to his factory, shop or office, or building.

1966-14-28

### **Showers**

**28.** In every factory in which the health of the employees, in the opinion of an inspector, is likely to be endangered by the presence of poisonous, irritating or infectious materials or gases or by extremes of temperature or humidity, the employer shall, immediately on being required to do so by the inspector in writing, provide showers and washbasins, in addition to those required under section 24, supplied with sufficient hot and cold water, as the inspector may order.

1966-14-29

### **Lunchrooms**

**29.** (1) An employer shall not allow an employee to take meals in a room where a manufacturing process is carried on.

(2) An employer shall provide a suitable room in or adjoining the factory, together with the necessary equipment, for the purpose of a lunchroom.

(3) No person shall take or be allowed to take food into any room in a factory where paint, varnish, dye, white lead, arsenic, ionizing radiation or other poisonous substance is exposed, or where deleterious fumes, dust or gases are known to be present.

1966-14-30

### **Seats for female employees**

**30.** (1) Where, in the opinion of an inspector, the whole or a substantial portion of the work on which female employees are engaged in a factory can be efficiently

performed while those employees are seated, the employer shall, immediately on being required to do so by the inspector in writing, provide the seats as directed by the inspector.

(2) Every employer shall provide a resilient material, satisfactory to the inspector, for female employees employed in work that necessitates constant standing on cement or hard surfaced floors.

1966-14-31.

### Regulations re harmful substances

**31.** The Lieutenant Governor in Council may make regulations for the protection of persons engaged in any industrial process involving the use or manufacture of any poisons, or of any dangerous or harmful substances, or of their preparations or compounds,

- (a) prescribing the conditions under which the poisons or substances may be used or manufactured and the labelling of the containers;
- (b) respecting the posting of printed forms setting forth the dangers and safety precautions;
- (c) requiring manufacturers, distributors and others to provide accurate information regarding the percentage of poisonous, dangerous or harmful constituents;
- (d) providing for the periodic medical examination by medical practitioners of employees engaged in such industrial processes and the reports to be made of those examinations;
- (e) respecting the payment of fees for the medical examinations;
- (f) respecting the reporting by employers, doctors and others of cases of affection from dangerous or harmful substances or industrial poisoning; and
- (g) generally governing matters as may be deemed advisable for the protection of such persons.

1966-14-32.

### Homeworkers

**32.** (1) In this section

“employer” means a person who, in his trade or business in personal or household articles, gives employment to a homemaker;

“employment” means the performance for wages of any work or service in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any personal or household article or any part of it;

“homemaker” means a person who for wages, in his home or elsewhere in premises not occupied by his employer, engages in employment in respect of personal or household articles;

“personal or household article” means a garment, suit, clothing, wearing apparel, or other article of personal dress or attire, and an article of domestic household use, including all materials and substances for them;

“wages” includes any compensation for labour or services, measured by time, piece or otherwise.

(2) Every employer and homemaker shall obtain a permit from an inspector.

(3) No employer or homemaker shall give or be engaged in employment without a permit from an inspector.

(4) Every employer and homeworker shall apply in writing to an inspector for a permit in the form approved by the inspector.

(5) Every permit issued by an inspector shall specify the purpose and the scope of authority granted by it, which may be enlarged at any time by the inspector's endorsement.

(6) No employer or homeworker shall give or be engaged in employment

(a) beyond the purpose and scope of authority of the permit; and

(b) at a wage less than that established by the Board of Industrial Relations.

(7) No employer's permit shall be issued unless the inspector is satisfied that the employer is likely to comply with the provisions of this Act, and Parts 5 and 8 of the *Employment Standards Act*.

(8) No homeworker's permit shall be issued unless the inspector is satisfied that the homeworker is fit for the purposes of employment, having regard to his health and his home or other premises.

(9) Every employer shall keep a register in a form satisfactory to the inspector containing

(a) the name, address and permit number of every homeworker to whom he gives employment;

(b) particulars of the employment;

(c) the dates and times of the homeworker's employment; and

(d) the wages paid.

(10) The inspector may at any time enter the premises of an employer to inspect

(a) the register required to be kept under subsection (9); and

(b) any personal or household article in it

(i) to be given to; or

(ii) which has been returned by a homeworker.

(11) The inspector may at any reasonable hour enter the home or other premises of a homeworker to inspect

(a) the premises and the sanitation of it; and

(b) any personal or household article in it given to him for employment.

(12) The inspector may at any time seize and impound any personal or household article in the possession of an employer or homeworker, or in the possession of any other person in his trade or business, if the article, in the opinion of the inspector, may affect or be injurious to the public health by reason of some insanitary condition or communicable disease having existed in the home or other premises of a homeworker while the article was in his employment.

(13) Every article impounded under subsection (12) shall immediately be delivered by the inspector to the local medical health officer or public health inspector for disinfection or destruction.

(14) The medical health officer or public health inspector to whom any impounded personal or household article is delivered by the inspector shall cause it to be disinfected. If, in the opinion of the medical health officer, disinfection may not be sufficient to protect the public health, he may direct that the article be destroyed.

(15) A personal or household article which has been impounded and disinfected shall be returned to the person from whose possession it was taken on payment of the costs of impounding and disinfection.

(16) If a personal or household article is directed by the medical health officer to be destroyed, no claim for compensation for the destruction or loss of the article shall be made.

(17) No person shall knowingly sell, expose for sale, or otherwise deal in any personal or household article in respect of which there has been a contravention of this section.

(18) The inspector may at any time cancel

- (a) an employer's or homeworker's permit for any contravention of this section, or any regulation or order made under it; and
- (b) a homeworker's permit if, in his opinion, the health of the homeworker or the state of sanitation of his home or other premises used by him is likely to be injurious to the public health.

1966-14-33.

#### **Notices to be posted in factory**

**33.** (1) Every employer shall post and keep posted at the entrance of each factory and in other parts of it the inspector directs, so that all employees may have ready access to and see the same,

- (a) the provisions of this Act and any regulations made under it as the inspector considers necessary;
- (b) the address of the chief inspector;
- (c) every other notice or document required by this Act to be posted in the factory.

1966-14-34.

#### **Register of work done outside factory**

**34.** (1) Every employer who sublets a contract or gives out materials to be made, altered, repaired or finished, at a place other than at a factory registered under this Act, shall keep a register of all the work given out, together with the location of the premises where the work is performed.

(2) The register shall be subject to the inspection of the inspector at all times.

1966-14-35.

#### **Service of notices and documents**

**35.** (1) A notice, order, requisition, summons or document required or authorized to be served or sent for the purposes of this Act may be served and sent

- (a) by delivering it to or at any residence of the person on or to whom it is to be served or sent;
- (b) where that person is an employer within the meaning of this Act, by delivering it, or a true copy of it, to his agent or to some person in the factory of which he is employer; or
- (c) by mailing it as a letter.

(2) A notice, order, requisition, summons or document served or sent by mail shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving the service or sending it is sufficient to prove that it was properly addressed and mailed. Where it is required to be served on or sent to an employer, it shall be deemed to be properly addressed if addressed to him at the factory in respect of which he is employer, with the addition of the proper postal address, but without naming the person who is the employer.

1966-14-36.

**Regulations**

- 36.** The Lieutenant Governor in Council may make regulations
- (a) for the protection of the health, safety and welfare of persons employed in a factory, shop or office building;
  - (b) prescribing the nature of the drawings and specifications to be submitted under this Act;
  - (c) prescribing forms and notices for use under this Act;
  - (d) prescribing standards with respect to heating, ventilation, illumination, sanitation, lunchroom facilities and other factors affecting the health, safety and comfort of the employees; and
  - (e) generally other matters necessary or advisable for the effectual working of this Act.

1966-14-37.

**Appointment of staff**

**37.** The inspectors, officers, clerks and employees required for the purpose of this Act may be appointed pursuant to the *Public Service Act*.

1966-14-38.

**Annual report**

**38.** The chief inspector shall each year make a report to the Minister of Labour for the year ended on the previous December 31, and that report shall be included in the Annual Report of the Ministry of Labour.

1966-14-39; 1977-75-1.

**Offences**

**39.** A person who fails to perform a duty imposed by or contravenes a provision of this Act, the regulations or an order or direction of an inspector commits an offence.

1966-14-40.

**Power of court in addition to fine**

**40.** (1) If a factory, shop or office building is not kept in conformity with this Act, the court, on finding that an employer is guilty of an offence, shall, in addition to the imposition of punishment under the *Offence Act*, order the employer or owner, within whatever time may be limited by the order, to make the changes necessary to bring the factory, shop or office building into conformity with this Act.

(2) If, after the expiration of the time limited by an order made under subsection (1), the order is not complied with, the employer or owner is liable to a fine not exceeding \$10 for every day that the noncompliance continues.

1966-14-41.

**Employer exempt**

**41.** (1) Where the employer is charged with an offence under this Act, he may, on information duly laid by him, have any other person whom he alleges to be the actual offender brought before the court at the time appointed for hearing the charge.

(2) If, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that

(a) he has used due diligence to enforce the execution of this Act; and  
(b) that the other person had committed the offence in question without his knowledge, consent or connivance,  
the other person may be summarily convicted of the offence, in which case the employer is exempt from penalty or punishment.

1966-14-42.

#### **Inspector to proceed against actual offender**

**42.** (1) Where the inspector is satisfied

- (a) that an employer has used all due diligence to enforce the execution of this Act;
- (b) of the identity of the other person by whom an offence was committed; and
- (c) that it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders,

the inspector shall proceed against the person whom he believes to have been the actual offender in the first instance, without first proceeding against the employer.

(2) Where the actual offender other than the employer is convicted, the employer is exempt from penalty or punishment.

1966-14-43.

#### **Fine on person committing offence for which employer liable**

**43.** Where an offence, for which an employer is liable under this Act to a fine, has in fact been committed by some agent, servant, worker or other person, that agent, servant, worker or other person is liable to the same fine, penalty or punishment for the offence as if he were the employer.

1966-14-44.

#### **Prosecutions**

**44.** (1) An information with respect to an alleged offence under or in contravention of this Act shall be laid

- (a) within 2 months after the alleged offence has come to the knowledge of the inspector;
- (b) where the offence is punishable at discretion by imprisonment, within 3 months after the alleged offence has come to the knowledge of the inspector;
- (c) where the inspector has given notice to the offender to remedy the matter alleged to be an offence against this Act, within 3 months after the expiry of the time given by the notice.

(2) In an information with respect to an alleged offence under or in contravention of this Act, it is sufficient

- (a) to allege that a factory, shop or office building is a factory, shop or office building within the meaning of this Act; and
- (b) to state the name of the ostensible employer or the firm name by which the employer is usually known.

1966-14-45.

**Defendant as witness**

**45.** On the trial of a complaint, proceeding, matter or question under this Act, the person opposing or defending, or who is charged with an offence against or under any of the provisions of this Act, is competent and compellable to give evidence in or with respect to the complaint, proceeding, matter or question.

1966-14-46.

**Penalties payable to Minister of Finance**

**46.** All fines and penalties imposed under this Act shall be paid to the Minister of Finance and belong to Her Majesty in right of British Columbia for the public use of the Province.

1966-14-47.

**PART 2****Interpretation**

**47.** In this Part

“approved” means approved by the inspector;

“chief inspector” means the chief inspector appointed for the purposes of this Act;

“elevating device” means a vertical or inclined lift used for raising or lowering passengers or materials, except those devices excluded by the regulations;

“licence” means a licence granted under this Act;

“major alteration” means any change or addition to an elevating device other than ordinary repairs or replacements;

“ministry” means the Ministry of Labour;

“operator” means any person whose regular employment is that of operating an elevator or who operates an elevator as part of his regular employment;

“owner” means the person in charge of an elevating device as owner, tenant, agent or otherwise.

1966-14-48; 1977-75-42.

**Application of this Part**

**48.** (1) This Part applies to all elevating devices except those devices excluded by the regulations.

(2) The chief inspector may give notice in writing to the owner of an apparatus in the nature of an elevating device or of a device excluded by the regulations from the application of this Act that the statutory provisions or regulations, or both, specified in the notice shall apply to the apparatus or elevator, and the provisions shall so apply unless withdrawn by subsequent notice in writing.

1966-14-49.

**Elevator operation**

**49.** (1) No owner, by himself or by an agent or employee, shall operate an elevating device, or cause or permit it to be operated by any person, unless the owner holds a valid and subsisting licence for it issued pursuant to this Act and the regulations.

(2) A licence for an elevating device shall set forth the maximum carrying capacity of the elevator as rated under section 50, and no person shall operate an

elevator, or cause or permit it to be operated, with a load in excess of that maximum carrying capacity.

(3) The inspector may grant a licence to the owner of an elevating device, and may suspend, revoke or transfer the licence in accordance with this Act and the regulations.

(4) The licence shall designate the elevating device and the type of service for which it is licensed.

(5) The licence shall expire on December 31 of the year for which it is issued, unless sooner suspended or revoked.

(6) The licence shall be kept by the owner in the machine room of the elevating device or adjacent to it, unless the inspector designates otherwise.

(7) The licence and machine shall have a number corresponding to the registration of the elevating device with the ministry records.

(8) Where a licence is suspended or revoked, the inspector may require those things to be done he deems necessary to ensure it will not be operated contrary to this Act and the regulations.

1966-14-50; 1977-75-1.

### **Rating of elevator capacity**

**50.** An inspector shall rate the maximum carrying capacity of every elevating device in respect of weight or number of passengers carried at its original design capacity, with due reduction for poor construction, age, deterioration and similar considerations.

1966-14-51.

### **Powers of inspector**

**51.** For the purposes of this Act, an inspector may

- (a) at any reasonable time by day or night enter a building or on property in or on which he has reason to believe an elevating device has been or is being installed or is being operated, for the purpose of inspecting the elevating device and the operation of it and of determining whether this Act and the regulations have been and are being complied with;
- (b) by notice in writing signed by him require the attendance of a person before him at a time and place to be named in the notice and examine the person on oath or otherwise regarding a matter pertaining to the inspection, construction, installation, testing, operation, maintenance or repair of any elevating device or any accident arising out of the use or operation of it;
- (c) require the owner or any person in charge of an elevating device or a contractor installing, altering, repairing, maintaining, servicing or testing an elevator to furnish within a specified time a written statement giving the information the inspector may deem necessary respecting the elevating device, the operation or repair of it, and the operators or other persons employed in connection with it;
- (d) require any person designated in paragraph (c), either immediately or within the time the inspector may prescribe, to make the elevating device available for inspection, for testing, or for any other purpose the inspector considers necessary;



- (e) require a person designated in paragraph (c) to place a person at his disposal to assist in making an inspection or for any other purpose which the inspector considers necessary;
- (f) give instructions orally or in writing to a person designated in paragraph (c) respecting the construction, installation, testing, operation, maintenance or repair of the elevating device, and require that the instructions shall be carried out either immediately or within a specified time;
- (g) instruct a person designated in paragraph (c) to cease immediately the operation, installation, alteration or repair of an elevating device which the inspector has reason to believe is being operated, installed, altered or repaired in an unsafe or improper manner, or in a manner which is not in accordance with this Act and the regulations, and the inspector's instructions shall immediately be carried out, and further operation, installation, alteration or repair of the elevator shall not proceed without permission in writing from the inspector;
- (h) condemn any elevating device which in his opinion may no longer be operated safely or is obsolete;
- (i) require the owner or any person in charge of an elevating device, either immediately or within the time the inspector may prescribe, to replace a person engaged in the operation of it who in the opinion of the inspector is negligent or incapable of operating the elevator in a safe and proper manner, or who is operating the elevator without being in possession of an operator's licence where required by the regulations.

1966-14-52.

#### **Notification of defects**

**52.** When an elevating device is being inspected, the owner or person in charge of it or a contractor installing, altering, repairing, maintaining, servicing or testing the elevating device shall point out to the inspector a defect of which he has knowledge or which he believes to exist in the elevating device, and if at any other time the person learns of a defect which might render the elevating device unsafe to operate, he shall immediately notify the inspector.

1966-14-53.

#### **Licence cancellation and suspension and sealing of device**

**53.** Where in the opinion of the inspector an elevating device is in an unsafe condition or is being operated in a dangerous manner or by a person who is not the holder of an operator's licence where required by the regulations, or where instructions given by an inspector under section 51 (f) are not being complied with, or where repairs, alterations or replacements set forth in an inspection report are not made within the prescribed time or, where no time has been prescribed, within a reasonable time,

- (a) the chief inspector may suspend or cancel the licence issued for the elevating device; or
- (b) the inspector may, on the instructions of the chief inspector, seal the elevating device and prohibit its use.

1966-14-54.

**Repairs**

**54.** No person shall, without written permission of the chief inspector, repair an elevating device which has been condemned by an inspector or operate it or cause it to be operated.

1966-14-55

**Sale, exchange or reinstallation of device**

**55.** No person shall, without written permission of the chief inspector, sell, exchange or reinstall in a new location an elevating device which has been previously used, whether or not the elevating device has been condemned by an inspector, but this section shall not apply in respect of an elevating device which is sold along with the building or premises in which it is located.

1966-14-56

**Devices used outside Province**

**56.** No person shall install or cause to be installed an elevating device which has previously been used outside the Province, unless the design and construction of it conform in every respect with this Act and the regulations, and unless permission in writing has been obtained from the chief inspector.

1966-14-57

**Devices out of operation for one year**

**57.** Where an elevating device has been out of service for one year or more, whether or not the use of it was discontinued voluntarily by the owner, no person shall operate the elevating device, or cause or permit it to be operated, without first applying to the inspector for a special inspection of the elevating device and receiving written permission for its operation from an inspector.

1966-14-58

**Prohibition against classifications**

**58.** No person making inspections on behalf of an insurance company or an owner shall classify an elevating device or part of it as being in a safe or good condition which has been otherwise classified by an inspector without first obtaining permission in writing from the chief inspector.

1966-14-59

**Regulations**

**59.** The Lieutenant Governor in Council may make regulations

- (a) prescribing conditions respecting the design, registration of designs, construction, installation, testing, operation, maintenance, repair and inspection of elevating devices, and governing the classification of elevating devices and all equipment used in connection with them;
- (b) prescribing the conditions under which a licence for an elevating device shall be issued;
- (c) fixing the minimum age of operators, providing for and requiring the licensing of operators, and prescribing the conditions under which operators' licences shall be issued;

- (d) governing the duration, transfer, suspension, cancellation, withdrawal and posting of licences;
- (e) prescribing the fees to be paid for licences and for the examination or registration of designs and the fees or other charges, or both, to be paid for inspections of elevating devices at the time of installation, reconstruction, alteration or repair, for special inspections, and for copies of inspection reports furnished to persons other than owners;
- (f) excluding any elevating device or class of elevating device from the application of this Act;
- (g) prohibiting or restricting the use of any type or class of elevating device, either generally or for a particular purpose;
- (h) adopting and constituting as regulations with respect to any of the matters mentioned in paragraphs (a), (b), (c), (d) and (e)
  - (i) relevant codes, rules or standards;
  - (ii) those codes, rules or standards with the exception of specified provisions of them; or
  - (iii) specified provisions of those codes, rules or standards; and
  - (iv) any amendments to those codes, rules or standards, with or without modification
 either in place of or in addition to regulations made under paragraphs (a), (b), (c), (d) and (e).

1966-14-60

### PART 3

#### Offences

- 60.** A person commits an offence who
- (a) fails to comply with or violates any of the provisions of this Act or the regulations for which failure or violation no penalty is otherwise provided;
  - (b) makes any false or misleading statement in a communication, whether in writing or otherwise, to the minister, the ministry or an inspector;
  - (c) interferes with or obstructs an inspector in the exercise of a power or the performance of a duty conferred or imposed on him by this Act;
  - (d) fails to comply with any notice, requirement or instructions given or made by the minister or an inspector pursuant to this Act;
  - (e) operates an elevating device of which he is owner, or causes or permits it to be operated, without having in his possession a valid and subsisting licence for the elevating device or causes or permits it to be operated by a person who is not the holder of a valid and subsisting operator's licence where required by the regulations; or
  - (f) fails to pay a fee or other charge prescribed by the regulations.

1966-14-61, 1977-75-1

### PART 4

#### Transition

**61.** All regulations made under the *Factories Act*, chapter 136 of the *Revised Statutes of British Columbia, 1960*, shall continue in effect until varied or cancelled by the Lieutenant Governor in Council.

1966-14-62

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