STATUTORY INSTRUMENTS

1974 No. 1776

FACTORIES

The Factories Act 1961 (Enforcement of Section 135) Regulations 1974

Made - - - -	*28th October* 1974
Laid before Parliament	*7th November* 1974
Coming into Operation	*1st January* 1975

The Secretary of State in exercise of the powers conferred on him by sections 80(1) and (3) and 82(3)(*a*) of the Health and Safety at Work etc. Act 1974**(a)** and of all other powers enabling him in that behalf, and after consultation with such bodies as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Factories Act 1961 (Enforcement of Section 135) Regulations 1974 and shall come into operation on 1st January 1975.

(2) The Interpretation Act 1889**(b)** shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Enforcement of section 135 *of the Factories Act* 1961

2. The Factories Act 1961**(c)** shall have effect as if after section 135 there were inserted the following section:—

"135A.—(1) The Secretary of State, with the approval of the Minister for the Civil Service as to numbers and salaries, may appoint such officers as he thinks necessary for the purpose of enforcing the provisions of the preceding section and of any regulations made or having effect thereunder and the persons so appointed shall for that purpose have the powers conferred on them by subsection (3) of this section.

(2) Every appointment under the preceding subsection shall be made by an instrument in writing and an officer appointed thereunder shall, if so required when exercising or seeking to exercise any power conferred on him by subsection (3) of this section, produce his instrument of appointment or a duly authenticated copy thereof.

(a) 1974 c. 37. (b) 1889 c. 63. (c) 1961 c. 34.

(3) An officer appointed under subsection (1) of this section may, for the purpose there mentioned, exercise any of the following powers:—

(*a*) at any reasonable time to enter a factory when he has reasonable cause to believe that any person is employed therein and any place from which any work is given out in connection with the business of a factory;

(*b*) to require the production of, inspect and take copies of or of any entry in any books or documents kept, furnished or exhibited in pursuance of the preceding section;

(*c*) to require any person whom he has reasonable cause to believe to be able to give any information relevant to his investigation under this section to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the officer may allow to be present) such questions as the officer thinks fit to ask and to sign a declaration of the truth of his answers: so however that no one shall be required under this provision to answer any question tending to criminate himself or, in the case of a person who is married, his or her wife or husband.

(4) In England and Wales, an officer appointed under subsection (1) of this section, if authorised in that behalf by the Secretary of State may, although not of counsel or a solicitor, prosecute before a magistrates' court proceedings for a contravention of the preceding section or regulations thereunder.

(5) If any person in purported compliance with a requirement imposed under this section—

(*a*) produces or furnishes or causes or knowingly allows to be produced or furnished any document which he knows to be false in a material particular; or

(*b*) makes any statement which he knows to be false in a material particular or recklessly makes a statement which is so false,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months.

(6) If any person intentionally obstructs an officer appointed under subsection (1) of this section in the exercise or performance of his powers or duties or fails to comply with any requirement imposed by such an officer in the exercise of his powers, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20."

Consequential amendments of section 135 *of the Factories Act* 1961

3. In subsection (5) of section 135 of the Factories Act 1961—

(*a*) for the words "an inspector" there shall be substituted the words "an officer appointed under the next following section"; and

(*b*) after the words "required to be kept" there shall be inserted "under the Health and Safety at Work etc. Act 1974 or".

Signed by order of the Secretary of State.
28th October 1974.

Harold Walker,
Joint Parliamentary Under Secretary of State,
Department of Employment.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

For the purpose of enabling piece workers to compute the total amount of wages payable to them in respect of their work, section 135 of the Factories Act 1961 requires particulars of the work to be done and the rate of wages applicable to it to be published as provided by that section. These requirements are enforced by inspectors of factories. On the establishment on 1st January 1975 of the Health and Safety Executive these requirements will cease to be so enforced. The functions of enforcing such requirements will not be within the functions of the said Executive under the Health and Safety at Work etc. Act 1974. These Regulations therefore make consequential provision for the enforcement of section 135 from the said date by officers appointed by the Secretary of State.

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