



## ANALYSIS

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1971, No. 45

**An Act to amend the Factories Act 1946**

[5 November 1971]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Factories Amendment Act 1971, and shall be read together with and deemed part of the Factories Act 1946 (hereinafter referred to as the principal Act).

**2. Interpretation**—(1) Section 3 of the principal Act is hereby amended by inserting, after the definition of the term “Court”, the following definition:

“‘Fire-safety certificate’ means a certificate issued under section 53 of this Act:”.

(2) The said section 3 is hereby further amended by omitting from the definition of the term “local authority” the words “or the Board of the road district”.

**3. Repealing provisions relating to records with respect to women's overtime**—(1) Section 21 of the principal Act (as substituted by section 4 (1) of the Factories Amendment Act 1956) is hereby repealed.

(2) The Factories Amendment Act 1956 is hereby consequentially amended by repealing subsection (1) of section 4.

**4. Fire safety**—(1) The principal Act is hereby further amended by repealing section 53, and substituting the following sections:

**“53. Fire-safety certificates**—(1) No premises shall be used as a factory unless—

“(a) A fire-safety certificate issued under subsection (3) of this section is for the time being in force in respect of the premises; or

“(b) An application has been made for the issue of a fire-safety certificate in respect of the premises and the local authority to which the application has been made has not declined to grant the certificate.

“(2) Every application for a fire-safety certificate shall be made in the prescribed form to the local authority within whose district the factory is situated.

“(3) As soon as practicable after receiving an application under subsection (2) of this section, the local authority shall cause the factory in respect of which the application was made to be inspected and, if it is satisfied that the means of escape and the fire-alarm system comply with its requirements, it shall issue a fire-safety certificate in the prescribed form to the occupier of the factory. Every such certificate shall specify in respect of the factory—

“(a) Particulars of the means of escape;

“(b) Particulars of the fire-alarm system provided;

“(c) The number of persons normally employed therein;

“(d) The maximum number of persons that may be employed therein at any one time; and

“(e) Particulars of any dangerous goods within the meaning of the Dangerous Goods Act 1957 normally stored or used therein.

“(4) If the local authority is not so satisfied, it shall serve a written notice in the prescribed form on the occupier of the factory stating that it will decline to grant a fire-

safety certificate unless its requirements are complied with. Every such notice shall specify the defects to be remedied and the time within which the required work is to be carried out. Subject to section 53B of this Act, if the specified defects are not remedied within the specified time the local authority shall be deemed to have declined to grant a fire-safety certificate.

“(5) A copy of every certificate issued under subsection (3) of this section and of every notice served under subsection (4) of this section shall be forwarded by the local authority to the Inspector.

“(6) If at any time after the issue of a fire-safety certificate the local authority is not satisfied that the means of escape and fire-alarm system specified in the certificate continue to comply with its requirements, it shall serve a written notice in accordance with subsection (4) of this section, and the provisions of that subsection and of subsection (5) of this section shall, with the necessary modifications, apply accordingly. When such a notice has been served, any fire-safety certificate in force in respect of the factory immediately before the service of the notice shall, subject to section 53B of this Act, be deemed to have been cancelled.

“(7) No occupier of a factory in respect of which a fire safety certificate has been issued shall—

“(a) Introduce changes involving—

“(i) Any substantial increase in the number of persons employed in the factory; or

“(ii) Any extension of, or structural alteration to, the factory; or

“(iii) The introduction of any process in which dangerous goods within the meaning of the Dangerous Goods Act 1957 will be used; or

“(iv) Any substantial increase in the quantity of such dangerous goods stored or used in the factory; or

“(b) Introduce any other changes whatsoever which may adversely affect the efficiency of the means of escape or the fire-alarm system—

unless he has given the local authority not less than 1 month's written notice of his intention to do so.

“(8) On receipt of a notice under subsection (7) of this section, the local authority shall assess the effect of the proposed changes and, if it is satisfied that the means of escape and the fire-alarm system will still comply with its

requirements, shall issue a new fire-safety certificate in respect of the factory. If the local authority is not so satisfied, it shall serve a written notice in accordance with subsection (4) of this section, and the provisions of that subsection and of subsection (5) of this section shall, with the necessary modifications, apply accordingly. When such a notice has been served, any fire-safety certificate in force in respect of the factory immediately before the service of the notice shall, subject to section 53B of this Act, be deemed to have been cancelled.

“(9) If an Inspector has reason to believe that the means of escape or the fire-alarm system in any factory are or is inadequate, he may notify the local authority in writing of the reasons for his belief.

“(10) On receipt of a notification under subsection (9) of this section, the local authority shall cause the factory to be inspected and, if it is not satisfied that the means of escape and fire-alarm system comply with its requirements, it shall serve a written notice in accordance with subsection (4) of this section and the provisions of that subsection and of subsection (5) of this section shall, with the necessary modifications, apply accordingly. When such a notice has been served, any fire-safety certificate in force in respect of the factory immediately before the service of the notice shall, subject to section 53B of this Act, be deemed to have been cancelled.

“(11) The Council of every local authority may from time to time make bylaws prescribing the fee payable by occupiers of factories for the issue of fire-safety certificates.

“(12) In respect of every factory operated by the Crown, every reference in this section (other than in subsection (11) of this section) to a local authority shall be read as a reference to the Commissioner of Works.

“53A. **Fire-safety precautions**—(1) Every means of escape specified in a fire-safety certificate shall be maintained in good order and repair and shall at all times be free of any obstruction.

“(2) At all times while persons are actually working in any room—

“(a) Every door of the room;

“(b) Every door of any passage or staircase leading to the room or serving as a means of entrance or exit for the room; and

“(c) The outer or entrance door by which persons employed in the factory usually enter or leave— shall, whether or not the door belongs to the factory, be kept clear and unlocked, so as to permit of quick and easy egress.

“(3) In every factory there shall be provided, to the satisfaction of the Inspector, adequate and suitable fire-fighting equipment, which shall be readily accessible at all times.

“53B. **Service of notices, appeals, etc., in respect of fire-safety certificates**—(1) The provisions of sections 81, 82, and 83 of this Act shall, with the necessary modifications, apply in respect of every notice served by a local authority under subsection (4) or subsection (6) or subsection (8) or subsection (10) of section 53 of this Act as if it were a requisition by an Inspector under this Act.

“(2) The provisions of section 368 of the Municipal Corporations Act 1954 shall not apply in respect of any work to which section 81 of this Act, as applied by subsection (1) of this section, applies.”

(2) This section shall come into force on the 1st day of April 1973.

**5. Protection from harmful noise**—The principal Act is hereby further amended by inserting, after section 67, the following section:

“67A. (1) If, in the opinion of the Medical Officer of Health, any noise arising from any process or activity carried out in any factory is likely to cause impairment to the hearing of the persons employed therein, the occupier shall take all such steps as may be practicable to prevent those persons from being exposed to that noise.

“(2) If, in the opinion of the Inspector, it is not practicable to prevent exposure to the noise by reducing the noise level of the process or activity, or by isolating or insulating the process or activity, the occupier shall cause all persons exposed to the noise to be provided with a personal ear protection device of a type approved by the Medical Officer of Health.”

**6. Duties of persons employed**—(1) Section 74 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the word “wilfully”, and substituting the words “without reasonable cause”:

(b) By omitting from subsection (1) the words “in pursuance of this Act”:

(c) By omitting from subsection (1) the words “under this Act”:

(d) By omitting from subsection (2) the words “wilfully and”.

(2) The said section 74 is hereby further amended by adding the following subsection:

“(3) Every person who acts in contravention of or fails to comply with the provisions of this section commits an offence against this Act.”

**7. Regulations**—Section 79 of the principal Act is hereby amended by omitting from subsection (1) the words “health of”, and substituting the words “health or impairment to the hearing of”.

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This Act is administered in the Department of Labour.

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