



Factories Act 1937

1937 CHAPTER 67 1 Edw 8 and 1 Geo 6

PART XIV

INTERPRETATION AND GENERAL.

Interpretation.

151 Interpretation of expression “factory”.

(1) Subject to the provisions of this section, the expression “factory” means any premises in which, or within the close or curtilage or precincts of which, persons are employed in manual labour in any process for or incidental to any of the following purposes, namely :—

- (a) the making of any article or of part of any article; or
- (b) the altering, repairing, ornamenting, finishing, cleaning, or washing, or the breaking up or demolition of any article; or
- (c) the adapting for sale of any article;

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 persons employed therein has the right of access or control :

And (whether or not they are factories by reason of the foregoing definition) the expression “factory” also includes the following premises in which persons are employed in manual labour, that is to say :—

- (i) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up;
- (ii) any premises in which the business of sorting any articles is carried on as a preliminary to the work carried on in any factory or incidentally to the purposes of any factory;
- (iii) any premises in which the business of washing or filling bottles or containers or packing articles is carried on incidentally to the purposes of any factory;

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- (iv) any premises in which the business of hooking, plaiting, lapping, making-up or packing of yarn or cloth is carried on;
 - (v) any laundry carried on as ancillary to another business, or incidentally to the purposes of any public institution;
 - (vi) any premises in which the construction, reconstruction or repair of locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking or other industrial or commercial undertaking, not being any premises used for the purpose of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out;
 - (vii) any premises in which printing by letterpress, lithography, photogravure, or other similar process, or bookbinding is carried on by way of trade or for purposes of gain or incidentally to another business so carried on;
 - (viii) any premises in which the making, adaptation or repair of dresses, scenery or properties is carried on incidentally to the production, exhibition or presentation by way of trade or for purposes of gain of cinematograph films or theatrical performances, not being a stage or dressing-room of a theatre in which only occasional adaptations or repairs are made;
 - (ix) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry;
 - (x) any premises in which mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain;
 - (xi) any premises in which the production of cinematograph films is carried on by way of trade or for purposes of gain, so, however, that the employment at any such premises of theatrical performers within the meaning of the Theatrical Employers Registration Act, 1925, and of attendants on such theatrical performers shall not be deemed to be employment in a factory;
 - (xii) any premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction, not being premises in which such operations or works are being carried on;
 - (xiii) any premises used for the storage of gas in a gasholder having a storage capacity of not less than five thousand cubic feet.
- (2) Any fine or siding (not being part of a railway or tramway) which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory; if any such line or siding is used in connection with more than one factory belonging to different occupiers, the line or siding shall be deemed to be a separate factory.
- (3) A part of a factory may, with the approval in writing of the chief inspector, be taken to be a separate factory and two or more factories may, with the like approval, be taken to be a single factory.
- (4) Any workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would constitute the workplace a factory if the persons working therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Act, and, in the case of any such workplace not being a tenement factory or part of a tenement factory, the provisions of this Act shall apply as if the owner or occupier of the workplace were the occupier of the factory and the persons working therein were persons employed in the factory.

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- (5) No premises in or adjacent to and belonging to a quarry or mine being premises in which the only process carried on is a process ancillary to the getting, dressing or preparation for sale of minerals shall be deemed to be a factory.
- (6) Where a place situate within the close, curtilage, or precincts forming a factory is solely used for some purpose other than the processes carried on in the factory, that place shall not be deemed to form part of the factory for the purposes of this Act, but shall, if otherwise it would be a factory, be deemed to be a separate factory.
- (7) Premises shall not be excluded from the definition of a factory by reason only that they are open air premises.
- (8) Where the Secretary of State by regulations so directs as respects all or any purposes of this Act, different branches or departments of work carried on in the same factory shall be deemed to be different factories.
- (9) Any premises belonging to or in the occupation of the Crown or any municipal or other public authority shall not be deemed not to be a factory, and building operations or works of engineering construction undertaken by or on behalf of the Crown or any such authority shall not be excluded from the operation of this Act, by reason only that the work carried on thereat is not carried on by way of trade or for purposes of gain.

152 General interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—
 - “Bakehouse ” means any place in which bread, biscuits or confectionery is or are baked by way of trade or for purposes of gain :
 - “Bank holiday ” means a holiday under the Holidays Extension Act, 1875 :
 - “Bodily injury ” includes injury to health :
 - “Building operation ” means the construction, structural alteration, repair or maintenance of a building (including re-pointing, re-decoration and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the foundation of, an intended building, but does not include any operation which is a work of engineering construction within the meaning of this Act:
 - “Calendar year ” means the period of twelve months beginning with the first day of January in any year:
 - “Chief inspector ” means the chief inspector appointed under this Act, and includes a deputy chief inspector:
 - “Class or description ”, in relation to factories, includes a group of factories described by reference to locality:
 - “Contravention ” includes, in relation to any provision, a failure to comply with that provision, and the expression “contravene ” shall be construed accordingly :
 - “Cotton cloth factory ” means any room, shed or workshop, or part thereof, in which the weaving of cotton cloth is carried on :
 - “Degrees ” means degrees Fahrenheit:
 - “District council ” means the council of a borough or county district:
 - “Driving-belt ” includes any driving strap or rope :
 - “Fume ” includes gas or vapour :

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“General register ” means the register kept in accordance with the requirements of section one hundred and sixteen of this Act:

“Humid factory ” means a factory in which atmospheric humidity is artificially produced by steaming or other means in connection with any textile process :

“Inspector ” means, except where otherwise expressed, an inspector appointed under this Act, and a reference to the inspector for the district or to the supermtending inspector for the division refers, as respects any factory, to the inspector in charge of the district, or the superintending inspector in charge of the division, in which the factory is situate :

“Machinery ” includes any driving-belt :

“Maintained ” means maintained in an efficient state, in efficient working order, and in good repair :

“Owner ” means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any-other person, or who would so receive the rackrent if the premises were let at a rackrent:

“Parent ” means a parent or guardian of, or person having the legal custody of, or the control over a child or young person, and includes, in relation to any child or young person, any person having direct benefit from his wages :

“Period of employment ” means the period (inclusive of the time allowed for meals and rest) within which persons may be employed on any day :

“Prescribed ” means prescribed by order of the Secretary of State :

“Prime mover ” means every engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source :

“Process ” includes the use of any locomotive :

“Railway ” means any railway used for the purposes of public traffic whether passenger, goods, or other traffic and includes any works of the railway company connected with the railway:

“Railway company ” includes the London Passenger Transport Board and a company or person working a railway under lease or otherwise :

“Sanitary conveniences ” includes urinals, water-closets, earthclosets, privies, ashpits, and any similar convenience:

“Ship, ” “vessel, ” and “harbour ” have the same meaning as in the Merchant Shipping Act, 1894 :

“Tenement factory ” means any premises where mechanical power from any prime mover within the close or curtilage 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 :

“Tramway ” means a tramway authorised by or under any Act of Parliament and used for the purpose of public traffic :

“Transmission machinery ” means every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance :

“Week ” means the period between midnight on Saturday night and midnight on the succeeding Saturday night:

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“Woman ” means a woman who has attained the age of eighteen :

“Work of engineering construction ” means the construction of any railway line or siding otherwise than upon an existing railway, and the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipe-line, aqueduct, sewer, sewage works, or gasholder, except where carried on upon a railway or tramway, and shall include such other works as may be specified by regulations of the Secretary of State :

“Young person ” means a person who has attained the age of fourteen and has not attained the age of eighteen but does not include any person whose parent is required under or by virtue of the Education Acts, 1921 to 1937, to cause him (unless there is some reasonable excuse) to attend school or to attend an alternative course within the meaning of the Education Act, 1936.

- (2) For the purposes of this Act, machinery or plant shall be deemed to have been constructed or reconstructed before the passing of this Act or the making of regulations under this Act, and a factory or building shall be deemed to have been constructed, reconstructed, extended, added to, or converted for use as a factory, before the passing or commencement of this Act or the coming into operation of any provision of this Act, if the construction, reconstruction, extension, addition, or conversion was begun before the passing or commencement of this Act, or the making of regulations under this Act, or the coming into operation of any provision of the Act, as the case may be.
- (3) For the purposes of this Act, a factory shall not be deemed to be a factory in which mechanical power is used by reason only that mechanical power is used for the purpose of heating, ventilating or lighting the workrooms or other parts of the factory.
- (4) A woman, young person, or child who works in a factory, whether for wages or not, either in a process or in cleaning any part of the factory used for any process, or in cleaning or oiling any part of the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise the subject of the process therein, shall, save as is otherwise provided by this Act, be deemed to be employed therein for the purposes of this Act or of any proceedings thereunder :

Provided that any woman employed solely in cleaning a factory or any part thereof, otherwise than in cleaning which is incidental to or connected with any process, shall not be deemed for the purposes of Part VI of this Act to be employed in the factory.
- (5) For the purposes of this Act, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.
- (6) For the purposes of this Act, an apprentice shall be deemed to be a person employed.
- (7) This Act shall in its application to London have effect, except when otherwise expressly provided, as if for references to district councils there were substituted, as respects the City of London references to the common council, and as respects the remainder of the administrative county of London references to metropolitan borough councils.
- (8) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment including this Act.

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153 Application of Act to young persons employed in factories in certain occupations.

A young person who works in a factory, whether for wages or not, in collecting, carrying or delivering goods, carrying messages or running errands shall be deemed to be employed in the factory for the purposes of this Act or of any proceedings thereunder :

Provided that the provisions of Part VI of this Act shall not apply, except as expressly provided, to any such young person who is employed mainly outside the factory.

General.

154 Inspection of certain premises.

Where in any premises which are subject to inspection by or under the authority of any Government department any manual labour is exercised, otherwise than for the purposes of instruction, in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of any article, and the premises do not constitute a factory, the Secretary of State may arrange with the department that the premises shall, as respects the matters dealt with by this Act, be inspected by an inspector appointed under this Act, and where such an arrangement is made, such inspectors shall have, as respects such matters as aforesaid, the like right of entry and inspection as is conferred on inspectors or other officers of the department concerned.

155 Expenses of Secretary of State.

The expenses of the Secretary of State in carrying this Act into effect shall be defrayed out of moneys provided by Parliament.

156 Application to Scotland.

- (1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.
- (2)
 - (a) The Department of Health for Scotland shall be substituted for the Minister of Health and the Scottish Education Department shall be substituted for the Board of Education.
 - (b) The expressions “medical officer of health” and “sanitary inspector ” have the like meanings as in the Public Health (Scotland) Act, 1897 , the expression “information” means complaint; the expression “informant ” means prosecutor; the expression “defendant ” means accused person; the expression “summons” means order; the expression “owner ” means the person for the time entitled to receive or who would, if the same were let, be entitled to receive the rents of the premises, and includes a trustee, factor, tutor or curator, and in the case of public or municipal property, applies to the persons to whom the management thereof is entrusted and the expression “young person ” means a person who has attained the age of fourteen and has not attained the age of eighteen, but does not include any person whose parent is required under or by virtue of the Education (Scotland) Acts, 1872 to 1936, to provide efficient education for him.

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- (c) For any reference to a local education authority under the Education Act, 1921, there shall be substituted a reference to an education authority for the purposes of the Education (Scotland) Acts, 1872 to 1936; for any reference to section fourteen of the Education Act, 1918, there shall be substituted a reference to section seventeen of the Education (Scotland) Act, 1918; for any reference to a county court there shall be substituted a reference to the sheriff; for any reference to county court rules there shall be substituted a reference to Act of Sederunt; for any reference to a witness attending before a court of record there shall be substituted a reference to a witness attending an inquiry under the Fatal Accidents Inquiry (Scotland) Act, 1895; for any reference to a master of the Supreme Court there shall be substituted a reference to the auditor of the sheriff court; for the reference in subsection (1) of section one hundred and fifty-seven of this Act to the Ministry of Health Act, 1919, there shall be substituted a reference to the Scottish Board of Health Act, 1919, and to the Reorganisation of Offices (Scotland) Act, 1928; for any reference to the Births and Deaths Registration Acts, 1836 to 1929, there shall be substituted a reference to the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1934.
- (3) All matters required by this Act to be published in the London Gazette shall, if they relate to Scotland, be published in the Edinburgh Gazette, either in addition or in substitution, as the case may require.
- (4) The powers and duties conferred and imposed by this Act on district councils shall be exercised and performed in a county by the county council, and in a burgh by the town council, save that, in so far as those powers and duties relate to the provisions contained in Part II of the Third Schedule to this Act, they shall be exercised and performed in a small burgh by the county council of the county in which such burgh is situate, and references in this Act to a district council and a district shall be construed accordingly.
- (5) Any expenses incurred under this Act by a county or a town council shall be defrayed in like manner as expenditure for the purposes of the Public Health (Scotland) Act, 1897.
- (6) The powers conferred by Part II or Part IV of this Act on a court of summary jurisdiction or a justice shall be exercisable only by the sheriff, and any reference in Part VII of this Act to the provisions of Part II with respect to the power of a court of summary jurisdiction shall be construed accordingly.
- (7) Any offence against this Act for which the maximum penalty that may be imposed does not exceed ten pounds may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act, 1908, having jurisdiction in the place where the offence was committed.
- (8) An offence against any provision of this Act which is directed to be enforced by a county or town council may be prosecuted by the council of the county or town in which such offence was committed and any such council may appear in any proceedings instituted by them under this Act by their clerk or other officer duly authorised in that behalf.
- (9) It shall not be an objection to the competency of an inspector or of any person prosecuting in pursuance of the power conferred by the last foregoing subsection to give evidence as a witness in any prosecution for an offence against this Act that the prosecution is brought at his instance, or conducted by him.

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- (10) Every person convicted of an offence against this Act may be found liable in expenses.
- (11) Subsection (10) of section thirty-four, subsection (3) of section fifty-three and subsection (3) of section fifty-four of this Act shall have effect as if the words “by way of complaint” were omitted.
- (12) Where, in pursuance of section sixty-eight of this Act, the Secretary of State directs a formal investigation to be held of any fatal accident, no inquiry into any death due to such accident shall, unless the Lord Advocate otherwise directs, be held in pursuance of the Fatal Accidents Inquiry (Scotland) Act, 1895.
- (13) For subsection (8) of section one hundred and twenty-six the following subsection shall be substituted:—
- “(8) If and so long as there is no examining surgeon for a factory, the medical officer of health for the county or burgh in which the factory is situate, or any medical officer of the council of such county or burgh designated for the purpose by the medical officer of health shall act as the examining surgeon for that factory.
- For the purposes of this subsection, ' burgh ' means large burgh, and a small burgh shall be included within the county in which it is situate.”
- (14) In subsection (9) of section one hundred and twenty-six for any reference to the poor law medical officer there shall be substituted a reference to such medical officer of health or medical officer as is referred to in the foregoing subsection.
- (15) Subsection (4) of section one hundred and forty of this Act shall have effect as if for any reference to a coroner's inquest there were substituted a reference to a public inquiry under the Fatal Accidents Inquiry (Scotland) Act, 1895, or the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act, 1906.
- (16) Any provision of this Act with regard to the recovery of any money summarily as a civil debt shall have effect as if the word “summarily” were omitted therefrom.
- (17) Section sixty-seven, subsection (5) of section one hundred and twenty-eight so far as it relates to legal proceedings, subsection (1) of section one hundred and thirty-seven, section one hundred and forty-one and section one hundred and forty-eight of this Act shall not apply.
- (18) References to section five of the Criminal Justice Administration Act, 1914, shall not apply.
- (19) Section twenty-nine of the Public Health (Scotland) Act, 1897, shall not apply in relation to any factory within the meaning of this Act.
- (20) The powers conferred by this Act on county and town councils and their officers shall, for the purposes of their duties under the Public Health (Scotland) Acts, 1897 and 1907, extend to factories within the meaning of those Acts.
- (21) In this section the expressions “large burgh” and “small burgh” have the like meanings as in the Local Government (Scotland) Act, 1929, and the expressions “county council” and “county” where occurring in any provision for the purposes of which a small burgh is included within a county or which directs that powers and duties shall be exercised and performed by a county council in a small burgh, shall mean respectively, in any case where two counties are combined under subsection (7) of section ten of the

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Local Government (Scotland) Act, 1929, the joint county council and the combined county.

157 Substitution of corresponding provisions for certain provisions of 1 Edw.7 c.22.

- (1) The provisions contained in Part I of the Third Schedule to this Act (being provisions of the Factory and Workshop Act, 1901, of which the administration was transferred under the Ministry of Health Act, 1919, to the Minister of Health, set out with the necessary modifications) shall have effect in lieu of the corresponding provisions repealed by this Act, and shall be enforced by the district council.
- (2) The provisions contained in Part II of the Third Schedule to this Act (being provisions of the Factory and Workshop Act, 1901, of which the administration was transferred as aforesaid but which do not apply in England outside the administrative county of London, set out with the necessary modifications) shall have effect in Scotland and in the administrative county of London in lieu of the corresponding provisions repealed by this Act, and shall be enforced by the district council.
- (3) The section of this Act relating to powers in case of default of a district council shall apply with respect to the provisions specified in the foregoing subsections of this section as it applies with respect to the provisions of Part I of this Act, except that references in that section to the Secretary of State and to an inspector shall, for the purposes of the application thereof under this section, be construed as references to the Minister of Health and to an officer appointed by him, and any such officer shall have the like powers as an inspector.

158 Provisions as to quarries and pit banks.

- (1) The provisions of the Quarries Act, 1894, shall apply to all quarries of whatever depth, but for the purposes of that Act the expression “quarry” shall not include any place in which any manufacturing process, other than a process ancillary to the getting, dressing, or preparation for sale of minerals is carried on.
- (2) The provisions of section nineteen of the Mining Industry Act, 1920 (which empowers the Board of Trade to make general and special regulations with respect to metalliferous mines) shall apply to quarries as they apply to metalliferous mines, but with this modification, that for the reference in that section to the general rules contained in section twenty-three of the Metalliferous Mines Regulation Act, 1872, there shall be substituted a reference to all the provisions of that Act which apply to quarries.
- (3) Regulations made by the Board of Trade by virtue of the said section nineteen with respect to quarries and metalliferous mines shall apply the provisions of sections ninety-two, ninety-three and ninety-five of the Coal Mines Act, 1911, so far as they relate to employment above ground, to women and young persons employed in connection with any quarry or metalliferous mine, in like manner as the provisions apply to the employment of such persons in connection with the mines mentioned in section one of that Act.
- (4) The Secretary of State may make arrangements with the Board of Trade, with respect to any premises or place in or adjacent to a quarry or mine, for the exercise and performance by the Board of Trade of any of the powers and duties of the Secretary of State under this Act and for the exercise and performance by the Secretary of State of any of the powers and duties of the Board of Trade relating to quarries and mines,

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and it shall be lawful for the Board of Trade and their officers and the Secretary of State and his officers respectively to exercise and perform the said powers and duties in accordance with the arrangements.

159 Repeals and exclusion of certain enactments.

- (1) Subject as hereinafter provided the enactments referred to in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that any order, regulation, byelaw, requirement, appointment, or agreement made or certificate (other than a certificate given under section fourteen of the Factory and Workshop Act, 1901) or notice given under any enactment repealed by this Act which is in force at the commencement of this Act shall continue in force and shall have effect as though it had been made or given under this Act, and, in so far as it could have been made or given under a particular provision of this Act, shall be deemed to have been made or given under that provision, and any such order or regulation made by the Secretary of State under a power which is exercisable under a corresponding provision of this Act by a different class of instrument, shall be deemed to be an instrument of that class, so, however, that any order or regulation of the Secretary of State which continues in force by virtue of this proviso may, in so far as may be necessary to bring it into conformity with this Act, be varied or revoked by an order made by him under this Act.

- (2) References in any enactment to a special order made under section one hundred and twenty-six of the Factory and Workshop Act, 1901, shall be construed as references to regulations made under this Act.
- (3) Nothing in this Act shall affect the definition of the expressions “factory” and “workshop” for the purposes of the Rating and Valuation (Apportionment) Act, 1928, but save as aforesaid references in any enactment to a factory or workshop within the meaning of the Factory and Workshop Acts, 1901 to 1929, or any of those Acts, shall be construed as references to a factory within the meaning of this Act.
- (4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.
- (5) Section one hundred and six of the Public Health (London) Act, 1936 (which relates to sanitary conveniences for factories), section one hundred and twenty-eight of that Act (which relates to nuisances from certain factories, workshops and workplaces), and section one hundred and twenty-nine of that Act (which relates to the limewashing and washing of certain factories, workshops and workplaces) shall not apply to any factory to which this Act applies.

160 Short title, commencement, extent and saving.

- (1) This Act may be cited as the Factories Act, 1937.
- (2) This Act shall, except as otherwise provided, come into operation on the first day of July, nineteen hundred and thirty-eight :

Provided that, if it is shown to the satisfaction of the Secretary of State as respects any particular requirement contained in Part II of this Act that by reason of substantial expenditure involved through the necessity of providing new, or altering existing,

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buildings or plant, or on account of other special difficulties, it would be right in the case either of factories generally or of any class or description of factory that the requirement should not come into operation on the date aforesaid, he may by order postpone the date of coming into operation of the said requirement, as respects factories generally or that class or description of factory, until such date as he may think fit but not later than the first day of January, nineteen hundred and forty; and any such order may direct that such corresponding provisions of any enactment repealed by this Act as may be specified in the order shall apply in lieu of the postponed requirement of this Act.

- (3) This Act shall not, except where otherwise expressly provided, extend to Northern Ireland.
- (4) Except where otherwise expressly provided, the provisions of this Act shall be in addition to and not in substitution for or diminution of the provisions of any other Act.