



# UNIVERSITY GRANTS COMMISSION

COMMISSION CIRCULAR NO: 06/2013

No. 20, Ward Place,  
Colombo 07.

22<sup>nd</sup> April, 2013

Vice Chancellors of Universities  
Rectors of Campuses  
Directors of Institutes

## REGISTRATION IN TERMS OF FACTORIES ORDINANCE NO. 45 OF 1942

Your attention is drawn to Sections 81 and 126 of the Factories Ordinance No.45 of 1942.

The University Grants Commission at its 871<sup>st</sup> meeting held on 04.04.2013 decided to recommend to register the Divisions/Departments in the Higher Educational Institutions, Campuses and Institutes where manual labour is exercised, in terms of Sections 81 of the said Factories Ordinance, with the Department of Labour, in order to enable the Department of Labour to closely supervise the occupational safety of the employees attached to such Divisions/Departments falling under the definition of Section 126 of the said Ordinance. The relevant Sections are attached herewith for your convenience.

Please note that such forms of registration need not be channeled through the University Grants Commission.

Please take action accordingly.

Prof. Kshanika Hirimburegama  
Chairperson

Cc:

1. Secretary/Ministry of Higher Education
2. Chairperson's Office/UGC
3. Vice-Chairman/UGC
4. Members of the UGC
5. Secretary/UGC
6. Deans of Faculties
7. Registrars of Universities
8. Accountant/UGC
9. Bursars of Universities
10. Librarians/SAL/AL of the Higher Educational Institutions/ Institutes
11. Deputy Registrars/ Snr. Asst. Registrars/ Asst. Registrars of Campuses/Institutes
12. Deputy Bursars/ Snr. Asst. Bursars/ Asst. Bursars of Campuses/Institutes
13. Chief Internal Auditor/UGC
14. Govt. Audit Superintendents of Universities
15. Snr. Asst. Int. Auditors/ Asst. Int. Auditors of HEIs
16. Secretaries of Trade Unions
17. Auditor General

UGC/L/13

## INSTITUTIONS

Institutions.  
[§ 36, Law 12 of 1976.]

(1) Where, in any premises forming part of an institution carried on for charitable or reformatory purposes or for technical or vocational training, any manual labour is exercised in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of articles not intended for the use of the institution, but the premises do not constitute a factory, then, nevertheless, the provisions of this Ordinance shall subject as hereinafter in this section provided, apply to those premises.

[§ 36, Law 12 of 1976.]

(2) If in any institution carried on for charitable or reformatory purposes, to which this Ordinance applies the persons having the control of the institution (hereinafter referred to as the managers) satisfy the Commissioner that the only persons working therein are persons who are inmates of and supported by the institution, or persons engaged in supervision of the work or the management of machinery, and that such work as aforesaid is carried on in good faith for the purposes of the support, education, training, or reformation of persons engaged in it, the Commissioner may by order direct that so long as the order is in force this Ordinance shall apply to the institution subject to the following modifications :-

- (a) The managers may submit for the approval of the Commissioner a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the inmates, and if the Commissioner is satisfied that the provisions of the scheme are not less favourable to the inmates than the corresponding provisions of this Ordinance, the Commissioner may approve the scheme, and upon the scheme being so approved this Ordinance shall, until the approval is revoked, apply as if the provisions of the scheme were substituted for the corresponding provisions of this Ordinance.
- (b) The medical officer of the institution (if any) may, on the application of the managers, be appointed to be the authorized factory doctor for the institution.
- (c) The provisions of Part X as to the posting of an abstract and notices shall not apply, but among the particulars required to be shown in the general register there shall be included such particulars of the scheme as may be prescribed or where no scheme is in force such particulars as may be prescribed as to hours of employment, intervals for meals or rest, and holidays, and other matters dealt with in this Ordinance.
- (d) In the case of premises forming part of an institution carried on for reformatory purposes, if the managers of the institution give notice to the Chief Factory Inspecting Engineer to that effect, an Inspecting Engineer or Inspecting Medical Officer shall not, without the consent of the managers or of the person having charge of the institution under the managers, examine an inmate of the institution save in the presence of one of the managers or of such person as aforesaid:

Provided that the Commissioner, on being satisfied that there is reason to believe that a contravention of the provisions of this Ordinance, or of any regulation or Order made thereunder, is taking place in any such institution, may suspend the operation of this paragraph as respects that institution to such extent as he may consider necessary.

[§ 12, 18 of 1998.]

- (e) The managers shall, not later than the fifteenth day of January in every year, send to the Commissioner a correct return, in such form as may be prescribed, specifying the names of the managers and the name of the person (if any) having charge of the institution under the managers, and such particulars as to the number, age, sex and employment of the inmates and other persons employed in the work carried on in the institution as may be prescribed, and shall, if they fail to do so, be guilty of an offence and liable to a fine not exceeding two thousand five hundred rupees.

(3) This Ordinance shall not, except in so far as the Commissioner may by order direct, apply to any premises which do not constitute a factory if the premises are subject to inspection by or under the authority of a Government department.

INTERPRETATION AND GENERAL  
INTERPRETATION

(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 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; or
- (d) the slaughter of cattle, sheep, swine, goats, horses, asses or mules; or
- (e) the confinement of the aforesaid animals while awaiting slaughter at other premises;

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 person 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;
- (iv) any premises in which the business of hooking, plating, 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, lubrication or repair of locomotives, vehicles or other plant for use for transport purposes is carried on not being any premises used for the purpose of housing locomotives or vehicles where only cleaning or washing is 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 conducted by any company or other commercial undertaking;
- (x) any premises in which mechanical power is used in connexion 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 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;

Interpretation  
of expression  
"factory."

[§ 53, Law 12 of 1976.]

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(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 line or siding (not being part of a railway or tramway) which is used in connexion with and for the purposes of a factory shall be deemed to be part of the factory; and where any such line or siding is used in connexion 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 Factory Inspecting Engineer, 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 Ordinance, and in the case of any such workplace the provisions of this Ordinance 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.

(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 Ordinance, but shall, if otherwise it would be a factory, be deemed to be a separate factory.

(7) No premises shall be deemed to be excluded from the definition of a factory by reason only that they are open air premises.

(8) Where the Minister by regulations so directs as respects all or any purposes of this Ordinance, 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 State or any municipal or other local or 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 State or any such authority shall not be excluded from the operation of this Ordinance, by reason only that the work carried on thereat is not carried on by way of trade or for purposes of gain.

(10) Where the only persons employed in any premises are members of the family of the occupier of those premises, those premises shall, notwithstanding anything in the preceding provisions of this section, be deemed not to be a factory for the purposes of this Ordinance.

(11) Where within the premises of any shop any work is done or any process is carried on which, under the preceding provisions of this section, constitutes those premises a factory, then, notwithstanding anything in such provisions-

(a) the Commissioner may, by order in writing, define the part or parts of those premises which shall be taken to be a factory or factories for the purposes of this Ordinance, and, upon the making of such order, no part of those premises other than a part so defined shall for the purposes of this Ordinance, be deemed to be a factory;

(b) the Commissioner may, if having regard to all the circumstances of the case he considers it expedient so to do by order in writing, declare that those premises shall not be taken to be a factory for the purposes of this Ordinance, and, upon the making of such order those premises shall not, for the purposes of this Ordinance, be deemed to be a factory.