

3rd
EDITION

Blackstone's

Statutes on EMPLOYMENT LAW



RICHARD KIDNER

Blackstone's Statutes on
EMPLOYMENT LAW

Third Edition

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EDITOR'S PREFACE TO THE THIRD EDITION

This collection of statutes is primarily intended for students of Employment Law (whether the subject is called Employment Law or Labour Law or Industrial Law), and it includes all those statutes and parts of statutes which a student may be referred to. The subject is now mainly statutory and it is impossible to study it satisfactorily without constant reference to the statutes, for much of the case law depends to a great extent on interpretation. However, a student does not need to have access to every detail of the vast array of statutory material and accordingly the purpose of this collection is to provide at a low cost those provisions which are central to a study of employment law.

The material is still in great need of consolidation, but every effort has been made to provide the statutes in their amended form. The selection has been made on the basis of what students might be referred to in their courses and the collection is necessarily not comprehensive but I hope that I have not omitted anything of relevance. Generally I have omitted material which relates only to particular employments (such as dock workers or teachers), together with minor, regulatory or empowering provisions. Nevertheless what has been provided covers all the law relevant for students of Employment Law, Trade Union Law and Collective Bargaining and I hope that students will find the collection useful, and a relatively inexpensive aid to the proper understanding of the subject. The statutes are not of course the whole story, but they are an essential prerequisite to appreciating the structure, nature and purpose of Employment Law.

The major event since the second edition has been the passing of the Trade Union and Labour Relations (Consolidation) Act 1992 which has entailed the deletion of ten separate statutes, and it is only to be regretted that the Employment Protection (Consolidation) Act 1978 was not re-consolidated at the same time. Although it does not appear in the index of Statutes this collection does contain the Trade Union Reform and Employment Rights Act 1993 but that is a wholly amending Statute and contains no substantive legislation of its own. Some other material has been added and the remainder revised and updated. I have also added the text of the 'Social Chapter' of the Treaty on European Union (the Maastricht Treaty) even though that part has not been adopted by the United Kingdom. In the longer statutes I have indicated in the text which sections have been omitted or repealed.

Finally, I am most grateful to Blackstone Press for the remarkable efficiency and speed with which this book has been brought to press.

The statutes are arranged in chronological order (and alphabetically within years) and are printed as amended to 1 August 1993.

Richard Kidner

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STATUTES OF THE UK PARLIAMENT

EMERGENCY POWERS ACT 1920 (1920, c. 55)

1 Issue of proclamations of emergency

(1) If at any time it appears to His Majesty that there have occurred, or are about to occur, events of such a nature as to be calculated, by interfering with the supply and distribution of food, water, fuel, or light, or with the means of locomotion, to deprive the community, or any substantial portion of the community, of the essentials of life, His Majesty may, by proclamation (hereinafter referred to as a proclamation of emergency), declare that a state of emergency exists.

No such proclamation shall be in force for more than one month, without prejudice to the issue of another proclamation at or before the end of that period.

(2) Where a proclamation of emergency has been made the occasion thereof shall forthwith be communicated to Parliament, and, if Parliament is then separated by such adjournment or prorogation as will not expire within five days, a proclamation shall be issued for the meeting of Parliament within five days, and parliament shall accordingly meet and sit upon the day appointed by that proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

2 Emergency regulations

(1) Where a proclamation of emergency has been made, and so long as the proclamation is in force, it shall be lawful for His Majesty in Council, by Order, to make regulations for securing the essentials of life to the community, and those regulations may confer or impose on a Secretary of State or other Government department, or any other person in His Majesty's service or acting on His Majesty's behalf, such powers and duties as His Majesty may deem necessary for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion, and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid as may appear to His Majesty to be required for making the exercise of those powers effective:

Provided that nothing in this Act shall be construed to authorise the making of any regulations imposing any form of compulsory military service or industrial conscription:

Provided also that no such regulation shall make it an offence for any person or persons to take part in a strike, or peaceably to persuade any other person or persons to take part in a strike.

(2) Any regulations so made shall be laid before Parliament as soon as may be after they are made, and shall not continue in force after the expiration of seven days from the time when they are so laid unless a resolution is passed by both Houses providing for the continuance thereof.

(3) The regulations may provide for the trial, by courts of summary jurisdiction, of persons guilty of offences against the regulations; so, however, that the maximum penalty which may be inflicted for any offence against any such regulations shall be imprisonment for a term of three months, or a fine not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or not exceeding a lesser amount, or both such imprisonment and fine, together with the forfeiture of any goods or money in respect of which the offence has been committed: Provided that no such regulations shall alter any existing procedure in criminal cases, or confer any right to punish by fine or imprisonment without trial.

EQUAL PAY ACT 1970 (1970, c. 41)

1 Requirement of equal treatment for men and women in same employment

(1) If the terms of a contract under which a woman is employed at an establishment in Great Britain do not include (directly or by reference to a collective agreement or otherwise) an equality clause they shall be deemed to include one.

(2) An equality clause is a provision which relates to terms (whether concerned with pay or not) of a contract under which a woman is employed (the "woman's contract"), and has the effect that—

(a) where the woman is employed on like work with a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term;

(b) where the woman is employed on work rated as equivalent with that of a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract determined by the rating of the work is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed and determined by the rating of the work, the woman's contract shall be treated as including such a term.

(c) where a woman is employed on work which, not being work in relation to which paragraph (a) or (b) above applies, is, in terms of the demands made on her (for instance under such headings as effort, skill and decision), of equal value to that of a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term.

(3) An equality clause shall not operate in relation to a variation between the woman's contract and the man's contract if the employer proves that the variation is genuinely due to a material factor which is not the difference of sex and that factor—

(a) in the case of an equality clause falling within subsection (2)(a) or (b) above, must be a material difference between the woman's case and the man's; and

(b) in the case of an equality clause falling within subsection (2)(c) above, may be such a material difference.

(4) A woman is to be regarded as employed on like work with men if, but only if, her work and theirs is of the same or a broadly similar nature, and the differences (if any) between the things she does and the things they do are not of practical importance in relation to terms and conditions of employment; and accordingly in comparing her work with theirs regard shall be had to the frequency or otherwise with which any such differences occur in practice as well as to the nature and extent of the differences.

(5) A woman is to be regarded as employed on work rated as equivalent with that of any men if, but only if, her job and their job have been given an equal value, in terms of the demand made on a worker under various headings (for instance effort, skill, decision), on a study undertaken with a view to evaluating in those terms the jobs to be done by all or any of the employees in an undertaking or group of undertakings, or would have been given an equal value but for the evaluation being made on a system setting different values for men and women on the same demand under any heading.

(6) Subject to the following subsections, for purposes of this section—

(a) "employed" means employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

(c) Two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control,

and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in Great Britain which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes.

(8) This section shall apply to—

(a) service for purposes of a Minister of the Crown or government department, other than service of a person holding a statutory office, or

(b) service on behalf of the Crown for purposes of a person holding a statutory office or purposes of a statutory body, as it applies to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

(9) Subsection (8) does not apply in relation to service in—

(a) the naval, military or air forces of the Crown,

(10) In this section "statutory body" means a body set up by or in pursuance of an enactment, and "statutory office" means an office so set up; and service "for purposes of" a Minister of the Crown or government department does not include service in any office in Schedule 2 (Ministerial offices) to the House of Commons Disqualification Act 1975 as for the time being in force.

(10A) to (12) [omitted]

(13) Provisions of this section and sections 2 and 2A below framed with reference to women and their treatment relative to men are to be read as applying equally in a converse case to men and their treatment relative to women.

2 Disputes as to, and enforcement of, requirement of equal treatment

(1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to an industrial tribunal.

(1A) Where a dispute arises in relation to the effect of an equality clause the employer may apply to an industrial tribunal for an order declaring the rights of the employer and the employee in relation to the matter in question.

(2) Where it appears to the Secretary of State that there may be a question whether the employer of any women is or has been contravening a term modified or included by virtue of their equality clauses, but that it is not reasonable to expect them to take steps to have the question determined, the question may be referred by him as respects all or any of them to an industrial tribunal and shall be dealt with as if the reference were of a claim by the women or woman against the employer.

(3) Where it appears to the court in which any proceedings are pending that a claim or counterclaim in respect of the operation of an equality clause could more conveniently be disposed of separately by an industrial tribunal, the court may direct that the claim or counterclaim shall be struck out; and (without prejudice to the foregoing) where in proceedings before any court a question arises as to the operation of an equality clause, the court may on the application of any party to the proceedings or otherwise refer that question, or direct it to be referred by a party to the proceedings, to an industrial tribunal for determination by the tribunal, and may stay or sist the proceedings in the meantime.

(4) No claim in respect of the operation of an equality clause relating to a woman's employment shall be referred to an industrial tribunal otherwise than by virtue of subsection (3) above, if she has not been employed in the employment within the six months preceding the date of the reference.

(5) A woman shall not be entitled, in proceedings brought in respect of a failure to comply with an equality clause (including proceedings before an industrial tribunal), to be awarded any payment by way of arrears of remuneration or damages in respect of a time earlier than two years before the date on which the proceedings were instituted.

2A Procedure before tribunal in certain cases

(1) Where on a complaint or reference made to an industrial tribunal under section 2 above, a dispute arises as to whether any work is of equal value as mentioned in section 1(2)(c) above the tribunal shall not determine that question unless—

(a) it is satisfied that there are no reasonable grounds for determining that the work is of equal value as so mentioned; or

(b) it has required a member of the panel of independent experts to prepare a report with respect to that question and has received that report.

(2) Without prejudice to the generality of paragraph (a) of subsection (1) above, there shall be taken, for the purposes of that paragraph, to be no reasonable grounds for determining that the work of a woman is of equal value as mentioned in section 1(2)(c) above if—

(a) that work and the work of the man in question have been given different values on a study such as is mentioned in section 1(5) above; and

(b) there are no reasonable grounds for determining that the evaluation contained in the study was (within the meaning of subsection (3) below) made on a system which discriminates on grounds of sex.

(3) An evaluation contained in a study such as is mentioned in section 1(5) above is made on a system which discriminates on grounds of sex where a difference, or coincidence, between values set by that system on different demands under the same or different headings is not justifiable irrespective of the sex of the person on whom those demands are made.

(4) In paragraph (b) of subsection (1) above the reference to a member of the panel of independent experts is a reference to a person who is for the time being designated by the

Advisory, Conciliation and Arbitration Service for the purposes of that paragraph as such a member, being neither a member of the Council of that Service nor one of its officers or servants.

3 and 4 [repealed] 5 [omitted]

6 Exclusion from ss. 1 to 5 of pensions etc.

(1) An equality clause shall not operate in relation to terms—

(a) affected by compliance with the laws regulating the employment of women, or
(b) affording special treatment to women in connection with pregnancy or childbirth.

(1A) An equality clause—

(a) shall operate in relation to terms relating to membership of an occupational pension scheme (within the meaning of the Social Security Pensions Act 1975) which is also an employment-related benefit scheme, within the meaning of Schedule 5 to the Social Security Act 1989, so far as those terms relate to any matter in respect of which the scheme has to comply with the principle of equal treatment in accordance with that Schedule; but

(b) subject to this, shall not operate in relation to terms related to death or retirement, or to any provision made in connection with death or retirement other than a term or provision which, in relation to retirement, affords access to opportunities for promotion, transfer or training or provides for a woman's dismissal or demotion.

(2) Any reference in this section to retirement includes retirement, whether voluntary or not, on grounds of age, length of service or incapacity and the reference in subsection (1A) above to a woman's dismissal shall be construed in accordance with section 82(1A) of the Sex Discrimination Act 1975 as a reference to her dismissal from employment.

7 [omitted]; 8 [repealed]; 9 [omitted]; 10 [repealed]; 11 [omitted]

HEALTH AND SAFETY AT WORK ETC. ACT 1974

(1974, c. 37)

PART I

HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

Preliminary

Section

1 Preliminary.

General duties

2 General duties of employers to their employees.

3 General duties of employers and self-employed to persons other than their employees.

4 General duties of persons concerned with premises to persons other than their employees.

6 General duties of manufacturers etc. as regards articles and substances for use at work.

7 General duties of employees at work.

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1 Preliminary

- (1) The provisions of this Part shall have effect with a view to—
 - (a) securing the health, safety and welfare of persons at work;
 - (b) protecting persons other than persons at work against risks to health or safety arising out of or in connection with the activities of persons at work;
 - (c) controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances, and generally preventing the unlawful acquisition, possession and use of such substances;

(2) The provisions of this Part relating to the making of health and safety regulations and the preparation and approval of codes of practice shall in particular have effect with a view to enabling the enactments specified in the third column of Schedule 1 and the regulations, orders and other instruments in force under those enactments to be progressively replaced by a system of regulations and approved codes of practice operating in combination with the other provisions of this Part and designed to maintain or improve the standards of health, safety and welfare established by or under those enactments.

(3) For the purposes of this Part risks arising out of or in connection with the activities of persons at work shall be treated as including risks attributable to the manner of conducting an undertaking, the plant or substances used for the purposes of an undertaking and the condition of premises so used or any part of them.

(4) References in this Part to the general purposes of this Part are references to the purposes mentioned in subsection (1) above.

2 General duties of employers to their employees

(1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under the preceding subsection, the matters to which that duty extends include in particular—

(a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;

(b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;

(d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to

health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;

(e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

(3) Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees.

(4) Regulations made by the Secretary of State may provide for the appointment in prescribed cases by recognised trade unions (within the meaning of the regulations) of safety representatives from amongst the employees, and those representatives shall represent the employees in consultations with the employers under subsection (6) below and shall have such other functions as may be prescribed.

(6) It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

(7) In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in subsection (4) above, to establish, in accordance with regulations made by the Secretary of State, a safety committee having the functions of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

3 General duties of employers and self-employed to persons other than their employees

(1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

(2) It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

(3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety.

4 General duties of persons concerned with premises to persons other than their employees

(1) This section has effect for imposing on persons duties in relation to those who—

(a) are not their employees; but

(b) use non-domestic premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there, and applies to premises so made available and other non-domestic premises used in connection with them.

(2) It shall be the duty of each person who has, to any extent, control of premises to which this section applies or of the means of access thereto or egress therefrom or of any plant or substance in such premises to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises,

and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.

(3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to—

(a) the maintenance or repair of any premises to which this section applies or any means of access thereto or egress therefrom; or

(b) the safety of or the absence of risks to health arising from plant or substances in any such premises;

that person shall be treated, for the purposes of subsection (2) above, as being a person who has control of the matters to which his obligation extends.

(4) Any reference in this section to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

5 [omitted]

6 General duties of manufacturers etc. as regards articles and substances for use at work

(1) It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground equipment—

(a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work;

(b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;

(c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when it is being dismantled or disposed of; and

(d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(2) It shall be the duty of any person who undertakes the design or manufacture of any article for use at work or of any article of fairground equipment to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the design or article may give rise.

(3) It shall be the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work or who erects or installs any article of fairground equipment to ensure, so far as is reasonably practicable, that nothing about the way in which the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above.

(4) It shall be the duty of any person who manufactures, imports or supplies any substance—

(a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which section 4 above applies;

(b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;

(c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when the substance is being disposed of; and

(d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(5) It shall be the duty of any person who undertakes the manufacture of any substance to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonable practicable, the elimination or minimisation of any risks to health or safety to which the substance may give rise at all such times as are mentioned in paragraph (a) of subsection (4) above.

(6) Nothing in the preceding provisions of this section shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of those provisions.

(7) Any duty imposed on any person by any of the preceding provisions of this section shall extend only to things done in the course of a trade, business or other undertaking carried on by him (whether for profit or not) and to matters within his control.

(8) Where a person designs, manufactures, imports or supplies an article for use at work or an article of fairground equipment and does so for or to another on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health at all such times as are mentioned in paragraph (a) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed by virtue of that paragraph to such extent as is reasonable having regard to the terms of the undertaking.

(8A) Nothing in subsection (7) or (8) above shall relieve any person who imports any article or substance from any duty in respect of anything which—

(a) in the case of an article designed outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or

(b) in the case of an article or substance manufactured outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.

(10) For the purposes of this section an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of paragraph (a) of subsection (1), (1A) or (4) above has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.

7 General duties of employees at work

It shall be the duty of every employee while at work—

(a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and

(b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

8 Duty not to interfere with or misuse things provided pursuant to certain provisions

No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

9 Duty not to charge employees for things done or provided pursuant to certain specific requirements

No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions.

10 to 19 [omitted]

20 Powers of inspectors

(1) Subject to the provisions of section 19 and this section, an inspector may, for the purpose of carrying into effect any of the relevant statutory provisions within the field of responsibility of the enforcing authority which appointed him, exercise the powers set out in subsection (2) below.

(2) The powers of an inspector referred to in the preceding subsection are the following, namely—

(a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned in subsection (1) above;

(b) to take with him a constable if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(c) without prejudice to the preceding paragraph, on entering any premises by virtue of paragraph (a) above to take with him—

(i) any other person duly authorised by his (the inspector's) enforcing authority; and

(ii) any equipment or materials required for any purpose for which the power of entry is being exercised;

(d) to make such examination and investigation as may in any circumstances be necessary for the purpose mentioned in subsection (1) above;

(e) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (d) above;

(f) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above;

(g) to take samples of any articles or substances found in any premises which he has power to enter, and of the atmosphere in or in the vicinity of any such premises;

(h) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purpose mentioned in subsection (1) above);

(i) in the case of any such article or substance as is mentioned in the preceding paragraph, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—

(i) to examine it and do to it anything which he has power to do under that paragraph;

(ii) to ensure that it is not tampered with before his examination of it is completed;

(iii) to ensure that it is available for use as evidence in any proceedings for an offence under any of the relevant statutory provisions or any proceedings relating to a notice under section 21 or 22;

(j) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (d) above to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;

(k) to require the production of, inspect, and take copies of or of any entry in—

(i) any books or documents which by virtue of any of the relevant statutory provisions are required to be kept; and

(ii) any other books or documents which it is necessary for him to see for the purposes of any examination or investigation under paragraph (d) above;

(l) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this section;

(m) any other power which is necessary for the purpose mentioned in subsection (1) above.

(3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(g) above (including provision as to the way in which samples that have been so taken are to be dealt with).

(4) Where an inspector proposes to exercise the power conferred by subsection (2)(h) above in the case of an article or substance found in any premises, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of the State.

(5) Before exercising the power conferred by subsection (2)(h) above in the case of any article or substance, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(6) Where under the power conferred by subsection (2)(i) above an inspector takes possession of any article or substance found in any premises, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(7) No answer given by a person in pursuance of a requirement imposed under subsection (2)(j) above shall be admissible in evidence against that person or the husband or wife of that person in any proceedings.

(8) Nothing in this section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, as the case may be, on an order for the production of documents in an action in the Court of Session.