



278. Can the Occupier and Manager of a factory be the same person as per the factories act, 1948?

The Factories Act, 1948, which governs the working conditions, safety, health, and welfare of workers in factories, clearly distinguishes between the roles of an occupier and a manager. While both are responsible for compliance with the Act, they have distinct legal and operational roles. The Act generally does not allow the same person to act as both occupier and manager, except under certain conditions.



Occupier: Holds ultimate control over the factory. Typically, an owner, director, or senior authority.



Manager: Responsible for day-to-day operations. Must be appointed and notified to the Chief Inspector.

1. Definitions of Occupier and Manager

a) Who is an Occupier? (Section 2(n))

As per **Section 2(n) of the Factories Act, 1948**, an **occupier** is defined as:

"The person who has the ultimate control over the affairs of the factory."

The Act further clarifies that:

- In case of a firm or association of individuals, any partner or member can be the occupier.
- In case of a company, one of its directors shall be deemed the occupier.
- In case of a government-controlled factory, the appointed managing authority shall be the occupier.

Thus, the occupier is typically the owner, director, or a person in a senior position responsible for factory policies and compliance at the highest level.

b) Who is a Manager? (Section 7(1)(f))

A manager is a person specifically designated to manage the day-to-day operations of the factory. As per Section 7(1)(f):

"Every factory must have a manager appointed by the occupier, and their name must be notified to the Chief Inspector of Factories."

Further, as per **Section 7(4)**:

"Whenever a new manager is appointed, the occupier must notify the Chief Inspector within 7 days."

This makes it clear that the manager is responsible for the daily functioning of the factory, while the occupier holds the ultimate control over its affairs.

2. Are the Occupier and Manager the Same Person?

a) The General Rule: They Must Be Different Individuals

The Act mandates that the occupier appoints a separate manager, making it clear that these roles are meant to be held by two different persons. The requirement for separate accountability supports this interpretation:

- Section 101 provides separate legal liabilities for both the occupier and the manager in case of violations.
- Section 7(1)(f) explicitly requires the occupier to appoint a manager for the factory.

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- If they were meant to be the same person, the law wouldn't have made a clear distinction between their duties and liabilities.

Thus, in a normal scenario, the occupier and the manager must be different persons.

b) The Exception: When the Occupier May Be Deemed the Manager

While the Act prefers separate individuals for these roles, Section 7(5) states:

"During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager."

This means that in situations where no manager is officially appointed, the occupier will automatically assume the role of manager. However, this is a temporary and exceptional situation rather than a standard practice.

3. Why Does the Law Require Different Individuals for These Roles?

The Factories Act, 1948, intends to separate these roles for better governance, accountability, and compliance:

a) Separation of Power and Responsibility

- The occupier is responsible for policy-making, legal compliance, and financial control.
- The manager is responsible for the day-to-day operations, worker safety, and implementation of policies.

b) Legal Accountability

- If a factory violates safety, health, or welfare provisions, both the occupier and manager can be held liable under Section 101.
- Having separate persons for these roles prevents misuse of power and ensures that compliance is enforced effectively.

c) Worker Safety & Welfare

- The manager is expected to be present at the factory daily to ensure that safety and operational requirements are met.
- The occupier, being in a higher-level role, may not always be available on-site, making it impractical for one person to effectively handle both roles.

4. Conclusion

Under normal circumstances, the occupier and manager must be two different individuals, as required by the Factories Act, 1948.

Summary of Key Points

- The occupier is the person with ultimate control over the factory.
- The manager is responsible for daily operations and must be separately appointed.
- Section 7(1)(f) requires the occupier to appoint a manager.
- Section 101 establishes separate legal liabilities for occupiers and managers.
- Section 7(5) states that the occupier may be deemed the manager only in the absence of an appointed manager, but this is an exception, not the norm.
- Thus, except in exceptional situations, the occupier and manager should not be the same person.

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