

FACTORIES AND SHOPS.

1° AND 2° GEO. VI., No. LIV.

No. 54 of 1937.

AN ACT to amend the Factories and Shops Act, 1920.

[Assented to 18th January, 1938.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Factories and Shops Act Amendment Act, 1937*, and shall be read as one with the Factories and Shops Act, 1920, as reprinted in the Appendix to the Sessional Volume of Statutes for the year 1928 and amended by Act No. 6 of 1932 (hereinafter referred to as the principal Act). Short title

2. Section four of the principal Act is hereby amended— Amendment of s. 4 of the principal Act.

- (a) In the definition of "furniture" by striking out all words after the word "part" in the second line of the definition down to and including the word "wood-turners" in the fourth line.
- (b) In the definition of "shop" by adding the following words at the end of the definition:—

“and any premises used as a showroom or for the public display of his wares by a vendor or the servant or agent of a vendor with a view to effecting the sale by way of retail of any such wares, or obtaining orders on a retail basis from any purchasers, notwithstanding that the orders obtained are fulfilled from stocks kept elsewhere than in such premises.”

Amendment
of s. 6 of the
principal Act.

3. Section six of the principal Act is hereby amended—

- (a) by adding the following words at the end of the section—“and may also appoint some fit and proper person to be Assistant Chief Inspector of Factories who—
- (a) may exercise all the powers of the Chief Inspector during illness or temporary incapacity of the Chief Inspector or during his temporary absence from office;
- (b) may exercise such powers of the Chief Inspector as the Chief Inspector may from time to time assign to him in writing either generally or in any particular case;
- (b) by adding the following subsection:—
 - (2.) In the absence of proof to the contrary, it shall be presumed that anything done by the Assistant Chief Inspector in purported exercise of any power conferred by this Act on the Chief Inspector is lawfully authorised under this section.

Amendment
of s. 7 of the
principal Act.

4. Section seven of the principal Act is hereby amended—

- (a) by numbering the present section subsection (1) and adding the following after the word “factories”:—“shops and warehouses or of any one or more of such classes of premises.”
- (b) by adding the following further subsections:—
 - (2.) No person shall be appointed an inspector of factories, unless such person has passed the prescribed examination; provided that the provisions of this subsection shall not apply to any person appointed an inspector prior to the commencement of this subsection.

(3.) Every inspector appointed under this Act (whether before or after the commencement of this subsection) may exercise all the powers and duties of an industrial inspector appointed under the Industrial Arbitration Act, 1912-1935.

5. Subsection (2) of section eighteen of the principal Act is hereby repealed.

Amendment
of s. 18 of the
principal Act.

6. Section twenty of the principal Act is amended—
(a) by striking out subsections (1) and (2) and substituting the following new subsections:—

Amendment
of s. 20 of the
principal Act

(1.) On receipt of the application and of the prescribed registration fee, registration shall be effected by an entry in a register of the prescribed particulars relating to the factory, and a certificate of registration shall be issued to the occupier.

(2.) Notwithstanding the registration of the factory if, in the opinion of the Chief Inspector, any premises registered as a factory are not suitable for the purpose for which they are used or intended to be used—

- (a) the Chief Inspector may forbid the premises from being used for such purpose; and
- (b) the Chief Inspector or any inspector may by notification in writing served on the applicant specify the matters in respect of which such premises are not suitable and—
 - (i) require the applicant to remedy such defects to the satisfaction of the Chief Inspector and limit the time in which the requisition is to be complied with, and
 - (ii) forbid the premises from being used for such purpose until the premises are made suitable for the purpose for which they are used or intended to be used, to the satisfaction of the Chief Inspector.

If the Chief Inspector forbids the premises from being used under the preceding subparagraph (ii), the Chief Inspector shall refund the fee paid for registration under subsection (1), and the occupier shall forthwith deliver up the then current certificate of registration to the Chief Inspector for cancellation.

Any person who uses any premises as a factory after the Chief Inspector has forbidden the same from being so used, without satisfying the Chief Inspector that the premises have been made suitable for such use in accordance with this section, commits an offence against this Act.

(b) By striking out the words "the demands of the Inspector as specified in such requisition" in the first and second lines of subsection three and substituting the words "any order of the Chief Inspector forbidding the use of the premises or any requisition of the Chief Inspector or an Inspector under this section."

Repeal of
s. 23 of the
principal Act.

7. Section twenty-three of the principal Act is hereby repealed.

Repeal of
s. 24 of the
principal Act.

8. Section twenty-four of the principal Act is hereby repealed.

Amendment
of s. 27 of the
principal Act.

9. (1.) Section twenty-seven of the principal Act is hereby amended by inserting the words "shop or warehouse" after the word "factory" wherever it occurs in the section.

(2.) Section twenty-seven of the principal Act as hereby amended shall be inserted in the position specified in section fifty-four of this Act in the supplemental provisions contained in Part XII. of the principal Act.

Amendment
of s. 32 of the
principal Act.

10. Section thirty-two of the principal Act is hereby amended by adding the following subsection:—

(2.) Where a person is employed by the same employer in both a factory and a shop, the person concerned shall be deemed to be employed in a factory and the provisions of subsection (1) of this section shall apply accordingly.

Amendment
of s. 34 of the
principal Act.

11. Section thirty-four of the principal Act is amended by deleting the word "child" in line eight and inserting in lieu thereof the word "boy."

Amendment
of s. 37 of
principal Act.

12. Section thirty-seven of the principal Act is amended by inserting the word "on" before the word "more" at the beginning of paragraphs (b) and (d) respectively of subsection (1).

13. Section forty of the principal Act is hereby amended by inserting after the word "industries" in the fifth line of subsection (1) the words "or any factory in which work which is a necessary part of any trade or manufacture carried on in such industries is performed."

Amendment
of s. 40 of
principal Act.

14. Section forty-one of the principal Act is amended by striking out the words "one shilling" in line eight of paragraph (f) and substituting the words "one shilling and sixpence."

Amendment
of s. 41 of
principal Act.

15. A new section is inserted in the principal Act, after section forty-one, as follows:—

New section.

41A. For the purposes of this Act any person (other than the occupier) employed in any capacity in a factory shall be deemed to be employed therein from the time when such person commences work until the time when working operations of such person cease for the day, and every such person shall forthwith after such cessation of work, unless lawfully working on overtime, leave the factory without loitering or remaining in the factory for his own purposes, excluding, however, the meal time prescribed under this Act.

Rule
regarding
employment.

16. Section forty-two of the principal Act is amended as follows:—

Amendment
of s. 42 of
principal Act.

- (a) by deleting from the said section the words "boy and every woman" in line two, and inserting in lieu thereof the word "person";
- (b) by deleting the whole of the proviso to the first paragraph of the section;
- (c) by deleting from the third paragraph of the section the words "woman and boy" in line three of the said paragraph and inserting in lieu thereof the words "person employed in a factory."

17. Section forty-three of the principal Act is amended by deleting the words "woman and boy" in line two of the section, and inserting in lieu thereof the word "person."

Amendment
of s. 43 of
principal Act.

Amendment
of s. 45 of the
principal Act.

18. (1.) Section forty-five of the principal Act is hereby amended by deleting the whole of paragraph (g), and inserting in lieu thereof a new paragraph, as follows:—

(g) Except with the permission in writing of the Chief Inspector, which shall only be granted on the ground of old age or infirmity, no woman over twenty-one years of age shall be employed in a factory, shop or warehouse at a lesser rate of wage than the lowest minimum rate prescribed for a woman over twenty-one years of age in any award or industrial agreement made under the provisions of the Industrial Arbitration Act, 1912-1935, and for the time being in force, and no male person over twenty-one years of age shall be employed in a factory, shop or warehouse at a lesser rate of wage than the lowest minimum rate prescribed for a male person over twenty-one years of age in any award or industrial agreement made under the provisions of the said Act and for the time being in force.

(2.) Section forty-five of the principal Act as hereby amended shall be inserted in the position specified in section fifty-four of this Act in the supplemental provisions contained in Part XII of the principal Act.

Amendment
of s. 46 of the
principal Act.

19. (1.) Section forty-six of the principal Act is hereby amended—

(a) by inserting after the word “factory” in the third line of subsection (1) the words “shop or warehouse”;

(b) by inserting a further subsection after subsection (1)—

(1a) No person shall ask or solicit the payment of any premium in respect of the employment or proposed employment of any person in any factory, shop, or warehouse, and no person shall offer to pay or furnish any premium in respect of any such employment or proposed employment;

(c) (i) by inserting after the word “factory” in the third line of subsection (2) the words “shop or warehouse”;

(ii) by adding at the end of the subsection the words “or on application being made in any penal proceedings under this section, the court shall order such sum to be repaid to the person entitled thereto”;

(d) by adding new subsections, as follows:—

(3.) No person shall procure the insertion in any newspaper of any advertisement or notification inviting or soliciting any premium in respect of the employment or proposed employment of any person in any factory, shop or warehouse.

(4.) Where any person seeks to procure the insertion in any newspaper of any advertisement or notification mentioned in subsection (3) of this section, the proprietor or publisher of such newspaper shall not receive such advertisement or notification unless the person seeking to procure the insertion aforesaid furnishes his name and address to such proprietor or publisher.

(5.) No person seeking to procure the insertion in any newspaper of any advertisement or notification mentioned in subsection (3) of this section, shall give to the proprietor or publisher of such newspaper a name and address which is false in any particular.

(6.) Where any advertisement or notification mentioned in subsection (3) of this section appears in any newspaper, the proprietor or publisher of such newspaper shall, upon request by the Chief Inspector, furnish to such inspector the name and address, as obtained by him, of the person who procured the insertion of such advertisement or notification in such newspaper.

(2.) Section forty-six of the principal Act as hereby amended shall be inserted in the position specified in section fifty-four of this Act in the supplemental provisions contained in Part XII. of the principal Act.

20. (1.) Section forty-seven of the principal Act is hereby amended by adding the words “shop or warehouse” after the word “factory” in line two of the section.

Amendment
of s. 47 of
principal Act.

(2) Section forty-seven of the principal Act as hereby amended shall be inserted in the position specified in section fifty-four of this Act in the supplemental provisions contained in Part XII. of the principal Act.

Amendment
of s. 48 of
the principal
Act.

21. Section forty-eight of the principal Act is hereby amended:—

- (a) by deleting the words “All women and all males under eighteen years of age” in lines one and two of the section and inserting in lieu thereof the words “All persons (except the occupier)”;
- (b) by adding at the end of the section a proviso, as follows:—

Provided that this section shall not apply to any student or pupil attending a university, or a technical college, or a *bona fide* school, or to an apprentice in any trade, who attends casually at a factory in the capacity of a student or pupil or apprentice as aforesaid for the purpose as an incident of his studies, of gaining practical knowledge in connection with the working of any plant, process or machinery, and not for the purpose of doing the work of an employee in such factory.

New sections.

22. The following new sections are hereby added at the beginning of Part VI. of the principal Act under the “Provisions relating to Health, Sanitation, and Safety”:

Special
regulations
concerning
dangerous
trades.

62A. (1.) Where the Minister is satisfied that any manufacture, plant, process, or description of manual labour used in factories is dangerous or injurious to health or dangerous to life or limb, either generally or in the case of women, young persons or any other class of persons, he may certify that manufacture, plant, process or description of manual labour to be dangerous; and thereupon the Governor may make such regulations as appear to him to be reasonably practicable and to meet the necessity of the case.

(2.) Before the Governor makes any regulations under this section the Minister shall publish in a newspaper circulating in the dis-

trict or districts in which the factories as aforesaid exist, and in such other manner as he may think best adapted for informing persons affected, notice of the proposal to make the regulations and of the place where copies of the draft regulations may be obtained, and of the time (which shall not be less than twenty-one days) within which any objection made with respect to the draft regulations by or on behalf of persons affected must be sent to the Minister.

(3.) Every objection must be in writing and state—

- (a) the draft regulations or portions of draft regulations objected to;
- (b) the specific grounds of objection; and
- (c) the omissions, additions, or modifications asked for.

(4.) The Minister shall consider any objection made by or on behalf of any persons appearing to him to be affected which is sent to him within the required time, and he may, if he thinks fit, amend the draft regulations, and shall then cause the amended draft to be dealt with in like manner as an original draft.

(5.) Where the Minister does not amend or withdraw any draft regulations to which any objection has been made, then (unless the objection either is withdrawn or appears to him to be frivolous) he shall, before recommending the Governor to make the regulations, direct an inquiry to be held in the manner hereinafter provided.

62B. (1.) When so required by subsection (5) of section sixty-two A of this Act, the Minister shall appoint a competent person to hold an inquiry with regard to the draft regulations, and to report to him thereon.

Minister shall direct inquiry before submitting regulations to Executive.

(2.) The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

62C. (1.) The regulations made under the foregoing provisions may be made to apply to all the factories in which the manufacture, plant, process or description of manual labour, certified to be dan-

Regulations may be of general or special application.

gerous, is used (whether existing at the time when the regulations are made or afterwards established), or to any specified class of such factories. They may provide for the exemption of any specified class of factories, either absolutely or subject to conditions.

(2.) No person shall be precluded by any agreement from doing, or be liable under any agreement to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of any regulation.

62D. Regulations made under the foregoing provisions may, among other things—

- (a) prohibit the employment of or modify or limit the period of employment of all persons or any class of persons in any manufacture, plant, process or description of manual labour certified to be dangerous; and
- (b) prohibit, limit, or control the use of any material or process.

62E. (1.) If any occupier who is bound to observe any regulation made under the foregoing provisions acts in contravention of or fails to comply with the regulation, he shall be liable for each offence to a penalty not exceeding fifty pounds and, in the case of a continuing offence, to a penalty not exceeding five pounds for every day during which the offence continues after conviction therefor.

(2.) If any person other than an occupier who is bound to observe any such regulation acts in contravention of or fails to comply with the regulation, he shall be liable for each offence to a penalty not exceeding two pounds; and the occupier of the factory shall also be liable to a penalty not exceeding two pounds, unless he proves that he has taken all reasonable means by publishing and enforcing the regulations to prevent the contravention or non-compliance.

Special provisions may be made in regard to certain matters.

Penalty for non-observance.

Amendment of s. 65 of the principal Act.

23. (1.) Section sixty-five of the principal Act is hereby amended by adding the words "shop or warehouse" after the word "factory" wherever it occurs in the section.

(2.) Section sixty-five of the principal Act as hereby amended shall be inserted in the position specified in section fifty-four of this Act in the supplemental provisions contained in Part XII. of the principal Act.

24. Section sixty-six of the principal Act is hereby amended—

Amendment
of s. 66 of the
principal Act.

(a) by striking out the words “women and boys” wherever they occur and substituting the word “employees”;

(b) by striking out the words “woman or boy” at the beginning of paragraph (b) and substituting the word “employee.”

25. Section sixty-seven of the principal Act is hereby amended by substituting the word “person” for the word “women” wherever the same occurs in the section.

Amendment
of s. 67 of the
principal Act.

26. Section eighty-two of the principal Act is amended by adding a proviso to the whole of the section, as follows:—

Amendment
of s. 82 of the
principal Act.

Provided that, where in any building more than one factory is carried on, and any of such factories are carried on upon floors above the ground floor, and the aggregate number of persons engaged in such last-mentioned factories exceeds fifteen, then notwithstanding that there may be less than fifteen persons engaged in each or any of such factories, the owner of the building shall provide an efficient fire-escape from each of those floors above the ground floor upon which any of the said factories are carried on; and such fire-escape shall conform in all respects with the provisions of the preceding paragraphs (2) to (8) inclusive.

27. Section eighty-three of the principal Act is hereby amended by inserting after the word “plan” in the sixth line the words “and specification.”

Amendment
of s. 83 of the
principal Act.

28. Section ninety-three of the principal Act is hereby amended by striking out the word “Justices” in the second line and inserting the words “the police or resident magistrate.”

Amendment
of s. 93 of the
principal Act.

Repeal
of s. 94 of the
principal Act
and insertion
of new
section.

29. Section ninety-four of the principal Act is hereby repealed and the following new section enacted:—

94. No person shall sell or expose for sale or have in his possession for sale any furniture other than second-hand furniture unless the same is stamped in the prescribed manner. For the purposes of this section "Second-hand furniture" means furniture which when purchased by any person for his own use and not for resale has been used by such person prior to a subsequent sale to some other person.

Amendment
of s. 97 of
the principal
Act.

30. Section ninety-seven of the principal Act is hereby amended—

(a) by striking out the word "knowingly" in the first line;

(b) by striking out the proviso to the section.

Amendment
of s. 103 of
the principal
Act.

31. Section one hundred and three of the principal Act is amended by deleting subsection (2) and inserting in lieu thereof a subsection as follows:—

(2.) Where, as the result of a resolution carried at a poll of electors under the provisions of section one hundred and six of this Act, a week day other than Saturday has been determined as the day upon which shops in the district shall close at one o'clock after noon, the day upon which the small shops aforesaid shall close at one o'clock after noon shall be the day determined by such resolution as aforesaid, or Saturday, according to the choice of the shopkeeper, to be made on registration as hereinafter provided.

Amendment
of s. 104 of
principal Act.

32. Section one hundred and four of the principal Act is amended by striking out the word "Minister" in the last line of subsection (1) and substituting the words "Chief Inspector."

Amendment
of s. 106 of
the principal
Act.

33. Section one hundred and six of the principal Act is amended, as follows:—

(a) by deleting subsection (3) and inserting in lieu thereof a subsection as follows:—

(3.) At every poll a resolution shall be sub-

mitted to the electors in the form of a question as follows:—

Do you vote that shops generally throughout the district shall close at one o'clock on

Such question shall be completed by inserting in the space left blank for the purpose the name of the week day to be submitted to the vote of the electors, and the voting shall be according to the form in the Seventh Schedule;

- (b) by deleting from subsection (4) the word "Wednesdays" in line eleven of the said subsection and inserting in lieu thereof the words "on that day in every week which has been determined by the voting at the said poll";
- (c) by deleting from subsection (5) the word "Wednesday" at the end of the said subsection, and inserting in lieu thereof the words "that day in every week so determined by such resolution";
- (d) by deleting from subsection (6) the word "Saturdays" in line twelve of the subsection and inserting in lieu thereof the words "on that day in every week upon which immediately prior to the said poll being taken the closing time then in operation was one o'clock after noon";
- (e) by deleting from subsection (6) the word "Saturday" at end of the subsection and inserting in lieu thereof the words "that day in every week upon which immediately prior to the said poll being taken the closing time then in operation was one o'clock after noon."

34. Section one hundred and eight of the principal Act is hereby repealed, and the following substituted:—

**Amendment of
s. 108 of the
principal Act**

108. The closing time for all shops mentioned in Part I. of the Fourth Schedule, except confectioners, vegetable, fruit, and milk shops shall be not later than eight o'clock in the evening of every day except Saturday and the week days next preceding Christmas Day, New Year's Day, and Good Friday, and every such shop, except bakers' shops and shops as hereinbefore mentioned, shall be kept closed until six

o'clock in the morning of the next following day or such earlier hour in the morning of the next following day as may from time to time be fixed by proclamation: Provided that, in the case of bakers' shops, the same shall be kept closed during each Sunday and also until the said hour of six o'clock in the morning of each day from Monday to Friday inclusive and until the hour of five o'clock in the morning of each Saturday or such earlier hour on such respective days as may be fixed by proclamation.

Provided further, that a shop kept mainly for the sale of confectionery, vegetables, fruit or milk shall not be a baker's shop within the meaning of that term as used in the next preceding proviso merely for the reason that bread, not made by the occupier of such shop is sold in such shop by the said occupier, and the next preceding proviso shall not apply to such shop.

The closing time on Saturday and the week days next preceding Christmas Day, New Year's Day, and Good Friday shall be not later than ten o'clock at night.

The closing time for confectioners, vegetable, fruit and milk shops shall be not later than eleven o'clock in the evening of every day, and every such shop shall be kept closed until six o'clock in the morning of the next following day, or such earlier hour in the morning of the next following day as may from time to time be fixed by proclamation: Provided that railway bookstalls and newsagents' shops in the vicinity of country stations may open for one half-hour before and after the arrival of a mail train.

Repeal of
s. 109 of
principal Act
and insertion
of new section.

35. Section one hundred and nine of the principal Act is repealed and the following new section is enacted in its place:—

Closing time
for hair-
dressers'
shops.

109. (1.) The closing time for all hairdressers' shops shall be not later than—

- (a) six o'clock in the evening of any day except Saturday and of the week day next preceding Christmas Day;
- (b) ten o'clock in the evening of the week day next preceding Christmas Day; and

(c) one o'clock in the afternoon of every Saturday;

and every such shop shall be kept closed until eight o'clock or such earlier hour as may from time to time be fixed by proclamation in the morning of the week day next following:

Provided that—

- (i) when any public holiday is observed in any district on a Monday every hairdresser's shop may open at eight o'clock before noon and remain open until eleven o'clock before noon;
- (ii) notwithstanding anything contained in this section the Governor may by proclamation authorise hairdressers' shops to remain open on any public holiday which is not observed on a Monday during any hours which may be specified in the proclamation, and may in like manner vary or rescind any such proclamation.

Subject to the foregoing proviso, every hairdresser's shop shall remain closed during the whole of any public holiday.

(2) In any district or specified locality in which the Governor has by proclamation under subsection (2) of section one hundred and two substituted another day for Saturday, the day so substituted shall by force of the proclamation be also substituted for "Saturday" in paragraph (c) of this section, as regards the district or locality affected.

(3.) In any district or specified locality in which it is lawful for shops to remain open till nine o'clock on one evening in the week, pursuant to subsection (5) of section one hundred and two, it shall be lawful for hairdressers' shops to remain open till that hour on that evening.

Provided that the foregoing provisions of this section shall, whilst such resolution as is set out in the Seventh Schedule is in force in any district, be read and have effect in such district so as to give effect to such resolution.

Amendment
of s. 114 of
principal Act.

36. Section one hundred and fourteen of the principal Act is amended—

- (a) by substituting the words “Chief Inspector” for the word “Minister” wherever that word occurs in subsection (2);
- (b) by striking out the words “by writing under his hand” in line two of subsection (2).
- (c) by substituting the words “Chief Inspector’s” for the word “Minister’s” in the last line of subsection (2).

Amendment of
s. 121 of the
principal Act.

37. Section one hundred and twenty-one of the principal Act is amended by inserting in subsection (2) after the word “shilling,” in line three of the said subsection, the words “and sixpence.”

Amendment
of s. 125 of
the principal
Act.

38. Section one hundred and twenty-five of the principal Act is hereby amended—

- (a) by striking out subsection (3) and substituting the following:—

(3.) On any half-holiday allowed to shop assistants pursuant to this Act, no shop assistant shall be employed for more than five hours in the aggregate, and such aggregate period of five hours shall not be spread over a greater period of time than seven hours from the hour of commencing to the hour of finishing work on such half-holiday.

- (b) by adding a subsection, as follows:—

(5.) Every shopkeeper shall post and keep posted up a copy of the provisions of this section in his shop premises in a conspicuous position so as to be accessible to and easily read by all shop assistants employed by him.

Amendment
of s. 126 of
the principal
Act.

39. Section one hundred and twenty-six of the principal Act is amended by adding a paragraph at the end of the section, as follows:—

The occupier of every shop shall cause to be kept posted in a conspicuous position so as to be easily read by all female shop assistants employed in the shop a copy of this section.

40. Section one hundred and twenty-eight of the principal Act is hereby repealed.

Repeal of
s. 128 of the
principal Act.

41. A new section is added after section one hundred and twenty-eight of the principal Act, as follows:—

New section.

128A. No person who carries on the business of hairdressing in all or any of its branches shall—

Hairdressing
schools.

(a) on the premises or any part of the premises occupied by him for such business teach or undertake to teach any other person the trade or business in all or any of its branches;

(b) permit or suffer his premises or the plant therein to be used by any other person for such purpose,

unless in either case the person receiving instruction is an apprentice duly bound for a period of not less than two years under the provisions of a deed of apprenticeship to the person imparting the instruction.

42. Section one hundred and twenty-nine of the principal Act is hereby amended by striking out the words “if so required by the Chief Inspector” in the third last line of the subsection.

Amendment
of s. 129 of
the principal
Act.

43. Section one hundred and thirty of the principal Act is amended—

Amendment
of s. 130 of
the principal
Act.

(a) by striking out the word “knowingly” in the first line of paragraph (a);

(b) by striking out the words “to his knowledge” in the third line of paragraph (b).

44. Section one hundred and thirty-one of the principal Act is repealed and the following substituted:—

Repeal of a
131 of prin-
cipal Act and
insertion of
new section.

131. (1.) The shopkeeper of every shop of a description mentioned in the Fourth Schedule shall keep in the prescribed manner a correct record of—

Records to be
kept in
Fourth
Schedule
shops.

(a) the name and sex of each shop assistant employed;

(b) the name and age of each shop assistant under the age of twenty-one years;

- (c) the class of work performed by each shop assistant;
- (d) the days on which shop assistants are allowed half holidays or holidays;
- (e) the wages paid to each shop assistant;

and such record shall be entered up weekly by the shopkeeper, and shall be signed weekly, if correct, by each shop assistant.

(2.) (a) Every such shopkeeper shall post, or cause to be posted and kept posted up in a conspicuous position in his shop so as to be easily accessible to and easily read by every shop assistant in his employ during working hours on every day, or by any inspector, a roster in the prescribed form in the English language showing—

- (i) the name and sex of each shop assistant employed;
- (ii) the class of work performed by each shop assistant;
- (iii) the times at which each shop assistant is required to commence and finish work on each day in each week;
- (iv) the hours in each day during which each shop assistant is entitled to be off duty during each day;
- (v) the time allowed for meals to each shop assistant on each day;
- (vi) the day in each week on which each shop assistant is allowed a half holiday and the time from which the assistant is allowed such half holiday.

(b) The particulars contained in such roster shall be in respect of the week Monday to Sunday inclusive during which it is posted up, and may be altered or varied only on account of the sickness or absence of a shop assistant, or on account of a contingency that the shopkeeper could not reasonably be expected to foresee: Provided that no such alteration or variation shall render lawful the employment of any

shop assistant for a greater number of hours in any week or in any day or days than is permitted by this Act, or to deprive any shop assistant of any holiday or half holiday to which such assistant may be entitled.

(3.) Every shopkeeper who refuses or neglects to comply with the provisions of this section, or who has or permits any shop assistant to be on duty when, in accordance with the roster, such assistant should be off duty, commits an offence against this Act.

45. Section one hundred and thirty-three of the principal Act is hereby amended—

Amendment
of s. 133 of
the principal
Act.

(a) by striking out subsection (1) and substituting the following:—

(1.) No person shall occupy or use any building, premises, or place as a shop or warehouse unless the same is duly registered under this Act.

(b) by striking out the words “Such notice shall specify” at the beginning of subsection (2) and substituting the following:—An application for registration shall be made to the Chief Inspector in the prescribed form, and shall specify;

(c) by striking out subsection (3);

(d) by striking out subsection (4) and substituting the following:—

(4.) The registration of every shop or warehouse under this Act shall be personal to the applicant occupier, and shall operate only during the current calendar year, and after the thirty-first day of December of that year the shop or warehouse shall be re-registered.

(e) by striking out the words “or hotel license” in line four of subsection (5) and inserting the words “railway refreshment room license or hotel license” in their stead;

(f) by inserting after the word “registration” in the first line of subsection (7) the words “or re-registration.”

Amendment
of s. 136 of
the principal
Act.

46. Section one hundred and thirty-six of the principal Act is hereby amended—

- (a) by inserting at the beginning of paragraph (1) of the section the words “Subject to the express provisions of section forty-one A”;
- (b) by striking out the words “in which the work of the factory is going on” in lines two and three of paragraph (1);
- (c) by striking out the word “justices” in line two of paragraph (2) and substituting the word “court.”

New section.

47. A section is inserted in the principal Act, after section one hundred and thirty-eight, as follows:—

Provision as
to person em-
ployed both
in a factory
and a shop.

138A. Where a person is employed by the same employer in both a factory and a shop, then for the purpose of computing the total number of hours in any one day during which such person shall be employed on such day, such person shall be deemed to be employed in the factory only, and the provisions of this Act shall apply to such person accordingly.

Amendment
of s. 140 of
principal Act.

48. Section one hundred and forty of the principal Act is amended by inserting the following words at the beginning of subsection (1):—“Subject to the express provisions of this Act.”

New section.

49. A new section is added after section one hundred and forty-one of the principal Act, as follows:—

Safety appli-
ances for
machinery,
etc.

141A. The occupier of every factory shall provide such guards for machinery and belts or appliances used in connection therewith, as may be prescribed for the purpose of preventing risk of injury to employees and other persons in or about the factory.

Repeal
of s. 144 of
the principal
Act and in-
sertion of
new section.
Minimum
penalty.

50. Section one hundred and forty-four of the principal Act is hereby repealed and the following substituted:—

144. Notwithstanding anything contained in the Justices Act, 1902-1932, the irreducible minimum

penalty which may be imposed on any person for any offence against this Act or any regulation thereunder shall be—

- Ten shillings on a first conviction;
- Two pounds on a second conviction; and
- Three pounds on any third or subsequent conviction.

51. Section one hundred and fifty-one of the principal Act is hereby amended by striking out the words “Notwithstanding anything contained in this Act” at the beginning of the section and substituting the words “Subject to the express provisions of section one hundred and forty-one A of this Act.”

Amendment
of s. 151 of
the principal
Act.

52. The Fourth Schedule of the principal Act is amended by striking out the words “Chemists or Druggists” and the word “Hairdressers” in Part II. of that schedule.

Amendment
of Fourth
Schedule of
the principal
Act.

53. The Seventh Schedule to the principal Act is amended as follows:—

Amendment
of Seventh
Schedule
of the principal
Act.

- (a) by deleting from the form in the Seventh Schedule the word “Wednesdays” and inserting in lieu thereof an index letter with a blank space thereafter as follows:—“(a).....”;
- (b) by inserting in the margin of the said form, opposite the question in such form an index letter and words as follows:—“(a) Insert the name of the week day in respect of which the poll is to be taken.”

54. (1.) The principal Act as amended by Act No. 6 of 1932 and this Act shall be reprinted under the supervision of the Clerk of Parliaments.

Citation of
principal Act
as amended
—reprinting.

(2) In any such reprint—

- (a) the sections shall be renumbered in arithmetical order and the numbering or lettering of and the cross-references in sections, subsections, paragraphs and subparagraphs shall be adjusted;
- (b) Sections thirty-five and forty-eight of the principal Act as amended by this Act shall be

transferred and placed in that order at the beginning of the supplemental provisions contained in Part XII. of the principal Act;

(c) Suitable references to amended and transposed sections shall be made in the marginal notes.

(3.) The short title of the principal Act as amended by Act No. 6 of 1932 and this Act shall be the Factories and Shops Act, 1920-1937.
