

WESTERN AUSTRALIA.



ANNO TERTIO

EDWARDI SEPTIMI REGIS,

XXXVII.

No 22 of 1904

AN ACT relating to Factories.

[Assented to 16th January, 1904.]

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:—

PART I.—PRELIMINARY.

1. THIS Act may be cited as the *Factories Act, 1904*, and shall come into operation on the first day of July, one thousand nine hundred and four. Short title, commencement and division.

It is divided into parts, as follows:—

- PART I.—PRELIMINARY, ss. 1-2.
- PART II.—INSPECTORS, ss. 3-5.
- PART III.—FACTORIES, ss. 6-38.
- PART IV.—SUPPLEMENTAL, ss. 39-60.

2. IN this Act, unless the context otherwise requires,—
“Boy” means every male under the age of fourteen years.

Interpretation.

“Closed” means closed to the admission of the public for the purposes of trade.

Factory.

See Queensland Act,
No. 28. 1900, s. 4.

“Factory” means—

- (1.) Any building, premises, or place in or in connection with which six or more persons, including the occupier, are engaged in working directly or indirectly at any handicraft, or in preparing, working at, or manufacturing articles for or in connection with any trade, or for sale, including every laundry.
- (2.) Any building, premises, or place in which a person or persons of the Chinese or other Asiatic race is or are so engaged; and
- (3.) Any building, premises, or place where steam or other mechanical power or appliance is used in preparing, working at, or manufacturing goods or packing them for transit:

But the term “factory” does not include—

- (a.) Any prison or any industrial or reformatory school; or
- (b.) Any building, premises, or place used for the manufacture of dairy produce; or
- (c.) Any ship; or
- (d.) Any building, premises, or place used exclusively for pastoral or agricultural purposes; or
- (e.) Any mine, or colliery, or any place in which machinery is used about a mine or colliery; or
- (f.) Any building, premises, or place in which any person, not being of the Chinese or other Asiatic race, is so engaged at home, that is to say, in private premises used as a dwelling or in any adjacent building or structure appropriated to the use of the household, and in which no steam or other mechanical power is used in aid of the manufacturing process carried on there, and where the only persons engaged do not exceed six and are members of the same family, and dwelling there.

- “Inspector” means an inspector of factories appointed under this Act, and includes chief inspector.
- “Local Authority” means a municipal council, road board, or board of health.
- “Minister” means the responsible Minister of the Crown charged with the administration of this Act.
- “Occupier” means the person, company, or association occupying any factory, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a factory.
- “Prescribed” means prescribed by regulations.
- “Regulations” means regulations made under this Act.
- “This Act” includes the regulations made thereunder.
- “Week-day” means any day of the week except Sunday.
- “Woman” means a female irrespective of age.

PART II.—INSPECTORS.

3. THE Governor may appoint a chief inspector of factories, and the Minister may from time to time appoint and dismiss fit persons of either sex to be inspectors of factories.

Inspectors may be appointed.

4. AN inspector may hold office as inspector under this Act in conjunction with any other office or employment which the Governor deems not incompatible with his duties under this Act.

Inspectors may hold office with other office.

5. EVERY inspector shall be furnished with a certificate of his appointment, and on applying for admission to a factory he shall, if required, produce such certificate to the occupier.

Inspector to have certificate of appointment.

PART III.—FACTORIES.

Application of this Part.

6. (1.) THIS Part of this Act shall only have effect in such districts as the Governor may from time to time, by notice in the *Government Gazette*, declare.

Application.

(2.) The Governor may from time to time, in like manner, exempt, either wholly or in part, any factory, or class of factories, from the operation of this Act or any provisions thereof, and the same shall thereupon be exempted accordingly, for the period and upon the conditions stated in the notice.

(3.) The Governor may in like manner rescind or alter any notice under this section.

Registration of Factories.

Factories to be registered.

7. AFTER the expiration of six months from the application of this Part of this Act to any district, no person shall, within such district, occupy or use as a factory any building, enclosure, or place, unless the same is registered as a factory under this Act.

Application for registration.
See N.Z. Act., No. 59, 1901, s. 11.

8. APPLICATION for registration shall be made to the Minister in writing in the prescribed form, and shall specify—

- (a.) The names in full of the occupier or intended occupier ;
- (b.) The situation of the factory or intended factory ;
- (c.) The name or style under which the business of the factory is to be carried on ;
- (d.) The nature of the work to be carried on therein, and of the motive power, if any, to be used ;
- (e.) The maximum number of persons to be employed therein ;

Inspector to examine factory.
Ibid., s. 12.

9. UPON receipt of the application, an inspector shall, without delay, examine the factory and satisfy himself that it is suitable for the purpose for which it is to be used, as specified in this Act, and that the requirements of this Act, and of any Act relating to public health, are complied with.

And may require defects to be remedied.
Ibid., s. 13.

10. (1.) IF the inspector is of opinion that the factory is defective in any material respect he shall, by requisition in writing served on the applicant, specify the defects and inform him that the intended factory will not be registered until the defects are remedied to the inspector's satisfaction.

(2.) If the applicant is dissatisfied with the requirements of the inspector, as specified in such requisition, he may appeal to the Magistrate of the Local Court of the district in which the factory is situated, and the provisions of section fifty-three relating to appeals shall apply.

Inspector to certify to Minister.

Mode of registration.

11. ON the inspector being satisfied as aforesaid, and upon the requisition (if any) being complied with, except so far as modified on appeal, the inspector shall so certify to the Minister, and registration shall be effected by an entry in a register of the prescribed particulars relating to the factory.

Certificate of registration.

12. A CERTIFICATE of registration shall be issued to the occupier.

13. THE fees for registration specified in the Schedule shall be payable on every registration. Registration fee.

14. REGISTRATION shall be renewed in the prescribed manner as often as there is any change in the occupancy of the factory, or in the nature of the work carried on therein, and unless and until renewed shall be void. Renewal of registration on change of occupancy.

15. WHERE the occupier or intended occupier of a factory, or any person engaged in or about a factory, is a person of the Chinese or other Asiatic race, the registration shall continue in force for one year only, but such registration shall be renewable from time to time. Annual registration where Asiatics employed.

Inspection of Factories.

16. EVERY inspector may—

- (1.) Enter, inspect, and examine a factory at all reasonable hours by day and night, when he has reasonable cause to believe that any person is at the time employed therein ;
- (2.) Enter by day any place which he has reasonable cause to believe to be a factory ;
- (3.) Make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act, and the regulations thereunder, and of all laws and by-laws relating to public health are complied with, so far as respects the factory and the persons employed therein.
- (4.) Examine and question, with respect to matters under this Act, every person whom he finds in a factory, or whom he has reasonable cause to believe to be employed in a factory, and require such person to sign a declaration of the truth of the matters respecting which he is so examined :

Provided that, on any such examination or inquiry, no person shall be required to answer any question tending to criminate himself.

- (5.) Require the production of any certificate of registration held by the occupier, or any book, notice, record, list, or other document which the occupier of a factory is by this Act required to keep or exhibit therein, and inspect, examine, and copy the same ;
- (6.) Exercise such other powers and authorities as the Governor may deem necessary for carrying this Act into effect.

Powers of inspectors.

See N.Z. Act, No. 59, 1901, s. 6.

S.A. Act, No. 603, 1894, s. 8.

Occupiers to allow entry and inspection.

N.Z. Act, No. 59, 1901, s. 7.

17. (1.) THE occupier of a factory, his agents and servants, shall at all reasonable times furnish the means required by an inspector for any entry, inspection, examination, and inquiry, or the exercise of his powers under this Act or any enactment relating to the public health, in relation to the factory.

(2.) Except for the purposes of this Act and the exercise of his functions under this Act, an inspector shall not disclose to any person any information which, in the exercise of such functions, he acquires respecting any factory.

(3.) In the event of any inspector disclosing to any person, except for the purposes of this Act, any information calculated to injure the occupier of a factory, he may be fined in a sum not exceeding fifty pounds sterling, and be otherwise dealt with as the Minister may direct.

Obstruction of inspector.

Ibid., s. 8.

18. A PERSON shall be deemed to obstruct an inspector in the execution of his duties under this Act who—

- (a.) Without reasonable cause delays an inspector in the exercise of any of his powers or duties under this Act; or
- (b.) Fails to comply with a requisition of an inspector made under any such power, or to produce any document which he is required by this Act to produce; or
- (c.) Prevents, or attempts to prevent, any person from appearing before or being examined by an inspector.

Records and Notices in Factories.

Records to be kept in factory.

See N.Z. Act, No. 59, 1901, s. 17.

19. (1.) IN every factory the occupier shall at all times keep or cause to be kept a record, showing with substantial correctness—

- (a.) The names of all persons employed in the factory, together with the respective ages of all such persons who are under eighteen years of age;
- (b.) The kind of work of each and every person employed in the factory.

Notices to be exhibited and maintained.

(2.) He shall also at all times cause to be exhibited and maintained, in some conspicuous place at or near the entrance of the factory and in such other parts thereof as the inspector from time

to time directs, and in such a position as to be easily read by the persons employed in the factory, a notice containing—

- (c.) The name and address of the inspector for the district ;
- (d.) The working hours of the factory ;
- (e.) The holidays and the day on which women and boys are allowed a half-holiday.

Hours of work of Women and Boys.

20. SUBJECT to the provisions of this Act, a woman or boy shall not be employed in or about a factory—

- (a.) For more than forty-eight hours, excluding meal-times, in any one week ; nor
- (b.) For more than eight hours and three-quarters, excluding meal-times, in any one day ; nor
- (c.) For more than five hours continuously without an interval of at least three-quarters of an hour for a meal ; nor
- (d.) At any time after one o'clock in the afternoon of one working day in each week ; nor
- (e.) In the case of women, at any time between the hours of six o'clock in the evening and eight o'clock in the morning following ; nor
- (f.) In the case of boys, at any time between the hours of six o'clock in the evening and a quarter to eight o'clock in the morning following :

Provided that, with the written consent of the inspector, seven o'clock in the morning may, during such months as are specified in such consent, be substituted in lieu of eight o'clock in the morning, but so that the hours of work are not extended beyond eight hours and three-quarters.

21. IN order to prevent any evasion or avoidance of the foregoing limits of working hours, all work done by any person employed in a factory for the occupier elsewhere than in the factory (whether the work is or is not connected with the business of the factory) shall be deemed to be done whilst employed in the factory, and the time shall be counted accordingly.

Hours of work of women and boys.
See Queensland Act, No. 28 of 1900. s. 46.

Prevention of evasion of working hours.
N.Z. Act, No. 59, 1901, s. 21.

Overtime.

22. (1.) THE working hours prescribed by the two preceding sections may from time to time be extended, but such extension shall not be—

- (a.) More than three hours in any day ; or

Conditions under which limits of working hours may be exceeded.

(b.) On more than two consecutive days in any week ; or

(c.) On more than thirty days in any year.

(2.) Every person who is employed during such extended hours under this section shall be paid therefor at not less than one-fourth as much again as the ordinary rate.

Overtime book.

(3.) The occupier of a factory shall at all times keep a record-book, called the "Overtime Book," wherein shall be entered a correct record showing, in the case of each person who is employed during such extended hours under this section, the name of the worker, and the respective dates and periods of such employment.

(4.) The overtime book shall at all times be open to the inspection of the inspector.

(5.) The inspector may at any time require the occupier to verify the entries in the overtime book, in such form as may be prescribed by regulations.

Hours of work of Asiatics.

Restriction as to hours of Asiatics.

23. NO person of the Chinese or other Asiatic race shall be employed in any factory for longer hours than women may be employed therein under this Act; nor shall he be employed before eight o'clock in the morning, nor after five o'clock in the evening.

Special Provisions as to Women and Boys.

Restrictions as to deductions from wages.

N.Z. Act, No. 59 of 1901, ss. 23 and 24.

24. WITH respect to the employment of women and boys, the following rules shall be observed in every factory:—

(1.) The occupier of the factory shall not be entitled to make any deduction, set-off, or counter-claim against a claim for wages or other remuneration for work actually and properly done, except to the extent of the special damage (if any) which he proves that he has suffered by reason of the unlawful act or default of the claimant in leaving the employment or being absent from the employment after the work was actually and properly done as aforesaid.

Rules as to meals, etc.

(2.) A woman or boy shall not be permitted to take any meal in any room whilst any handicraft or manufacturing process is being carried on therein, unless written permission has been first obtained from the inspector.

- (3.) A woman or boy shall not be permitted to do any work in any workroom during her or his interval for meals.
- (4.) A woman shall not be knowingly employed in any factory during the four weeks immediately after her confinement.

Restrictions as to Age of Persons employed in Factories.

25. WITH respect to the employment of boys or girls, the following rules shall be observed in every factory:—

Restrictions as to age of boys or girls employed in certain factories. N.Z. Act, No. 59 of 1901, s. 25.

- (1.) A boy or girl under fourteen years of age shall not be employed except in special cases authorised in writing by the inspector:

No authority under this subsection shall be granted contrary to the provisions of any Act relating to public elementary education.

- (2.) A girl under fifteen years of age shall not be employed as type-setter in any printing office.
- (3.) A girl under sixteen years of age shall not be employed in that portion of a factory in which there is carried on—
- (a.) The making or finishing of bricks or tiles, not being ornamental tiles; or
- (b.) The making or finishing of salt.
- (4.) A woman or boy under eighteen years of age shall not be employed in any room in which there is carried on—
- (c.) The silvering of mirrors by the mercurial process; or
- (d.) The making of white lead.

26. IN every case where a boy or girl under the age of fourteen years is employed in a factory in breach of this Act, then, irrespective of the penalty to which the occupier of the factory thereby exposes himself, the parent of the boy or girl so employed commits a breach of this Act, unless he satisfies the Court that the employment was without his consent, connivance, or default.

Penalty on parent of child employed in breach of Act. *Ibid.*, s. 52.

Sanitation of Factories.

27. FOR the better sanitation of factories, the following rules shall at all times be observed in a factory:—

Sanitation rules N.Z. Act, No. 59, 1901, s. 41.

- (1.) The factory and the yards thereof shall be kept in a cleanly state, and free from any smell or leakage arising from any drain, privy, or any other nuisance.
- (2.) The factory shall not be overcrowded so as to be hurtful to the health of the persons employed therein.

- (3.) Adequate measures shall be taken for securing and maintaining a reasonable temperature so as to guard against extreme heat.
- (4.) The factory shall be ventilated in such manner as to provide a sufficient supply of fresh air.
- (5.) Without limiting the operation of the last preceding subsection, the inspector may, by requisition to the occupier, require the occupier to supply efficient appliances to carry off and render harmless all gases, fumes, dust, and other impurities.
- (6.) The inspector may, subject to the approval of the Minister, from time to time, by requisition to the occupier, determine, as to the factory or any workroom therein, what space of cubic or superficial feet shall be reserved for the use of each person working therein, and the occupier shall cause the same to be reserved accordingly, and such space shall not be less than that prescribed from time to time by regulations; provided, however, that such reserved space shall not exceed that in force for schools under the Education Act.
- (7.) The space so to be reserved shall not be deemed to be reserved unless it is kept properly lighted and ventilated, and clear from all materials, goods, or tools other than those actually used or required by the person for whom the space is to be reserved.
- (8.) A sufficient supply of fresh drinking-water shall be provided for the free use of the persons employed in the factory.

Assistant's health likely to contaminate articles of food. N.Z. Act, No. 59, 1901, s. 44.

28. If any person employed in or in connection with any factory in the manufacture, handling, or delivery of any bread, meat, milk, confectionery, or other article for human consumption is in a state of health which, in the opinion of the inspector, is likely to convey germs of disease or other contamination to any of the said articles, the inspector shall forthwith report the same to the central board of health.

- (1.) The inspector shall serve upon the person so employed, either personally or by posting the same addressed to him at the factory, a notice requiring him to submit himself for examination to a registered medical practitioner.
- (2.) The inspector shall serve a copy of such notice upon the occupier of the factory.
- (3.) Immediately upon the service of such notice the person so employed shall cease to do any work in the factory

- (5.) Such notice shall not be removed except by the inspector, nor until he is satisfied that the appliance has been rendered safe; and until the notice is removed by him the appliance shall not be used.
- (6.) Without limiting the operation of the foregoing rules, the inspector may, by requisition to the occupier, require the occupier to repair or safeguard any specified appliance, or to remedy any specified defect in the machinery.

33. IF default is made in observing the provisions of the preceding section, the factory shall be deemed not to be kept in conformity with this Act. Breach of rules.

34. NO male under eighteen years of age, and no female, shall be allowed— Restriction on employment under certain age.

(a.) To clean such part of the machinery in a factory as is mill gearing while the same is in motion for the purpose of propelling any part of the manufacturing machinery; or S.A. Act, No. 752, 1900, sec. 47.
See N.S.W. Act, No. 37, 1896, sec. 32.

(b.) To work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, gas, oil, electric, water, or other mechanical power.

35. (1.) WHERE there occurs in a factory any accident causing either death or serious bodily injury to any person employed therein, written notice of the accident shall forthwith be sent by the occupier to the nearest inspector, stating the nature of the accident, and the name and residence of the person killed or injured, or the place to which he has been removed. Accidents in factories.
S.A. Act, No. 752, 1900, sec. 48.
N.Z. Act, No. 59, 1901, s. 39.

(2.) For the purpose of this section "serious bodily injury" means an injury which is likely to incapacitate the sufferer from work for at least forty-eight hours.

36. THE inspector shall, immediately on receiving such notice, proceed to the factory and inquire into the cause of the accident, and may examine the occupier and all persons employed in the factory, and shall report the result to the Minister. Inspector to inquire and report.

Fires in Factories.

37. FOR the better prevention of fires, and of accidents resulting from fires, the following rules shall be observed in every factory in which more than twenty-five persons are employed: Rules to prevent accidents from fire.
See N.Z. Act, No. 59, 1901, s. 40.

- (1.) Efficient fire-escapes shall be provided for every work-room or any floor above the ground floor.

- (2.) The plan and system of fire-escape may be prescribed by regulations, and, in so far as no such regulation is made, the inspector, if not satisfied with the plan or system adopted, may by requisition to the occupier direct another specified plan or system to be provided.
- (3.) Every door, whether internal or external, shall, when an inspector so requires, be hung so as to open outwards.
- (4.) At all times while persons are actually working in a room, every door of the room, or of any passage or staircase leading to the room, or serving as means of entrance or exit for the room, shall be kept clear and unfastened, so as to admit of quick and easy egress.
- (5.) The provisions of the two last preceding subsections shall apply also to the outer or entrance door by which the persons employed in the factory usually enter or leave, whether such door belongs to the factory or not.
- (6.) Staircases and steps leading from one floor to another, or to the ground, shall be provided with substantial hand-rails, and shall also, if the inspector by requisition to the occupier so directs, be provided with slats or some other sufficient appliance to prevent slipping.
- (7.) If the inspector considers any stairway or passage to be so steep, narrow, winding, intricate, insecure, or otherwise defective as to be unsafe, he may, by requisition to the occupier, direct the defect to be remedied.
- (8.) Reasonably efficient means for extinguishing fires shall be provided by the occupier.

Sweating in Factories.

Provisions to be observed when work given out to be done elsewhere than in factory.

N.Z. Act, No. 59, 1901, s. 28.

38. FOR the better suppression of what is commonly known as "the sweating evil," the following provisions shall apply in every case where the occupier of a factory lets or gives out work of any description in connection with textile or shoddy material, to be done by any person elsewhere than in the factory:—

- (1.) The occupier of the factory shall at all times keep or cause to be kept a record showing with substantial correctness—
 - (a.) The full name and address of each such person, and the situation of the place where he does the work;

(b.) The quantity and description of the work done by each such person.

(2.) If the person to whom the work is let or given out as aforesaid,—

(c.) Directly or indirectly sublets the work or any part thereof, whether by way of piecework or otherwise; or

(d.) Does the work or any part thereof otherwise than on his own premises, and by himself or his own workpeople to whom he himself pays wages therefor,—

he shall be deemed to have committed a breach of this Act.

PART IV.—SUPPLEMENTAL.

39. IN every factory the opening of every hoistway, elevator, lift, well-hole, or stairway shall, at each floor, be provided with and protected by such safeguards as the inspector may approve.

Hoists and lifts to be protected.

40. IF an elevator or lift in a factory is considered by an inspector to be unsafe or dangerous to use, he may prohibit the occupier from using such elevator or lift until it is made safe to the inspector's satisfaction.

Unsafe or dangerous elevator or lift.

41. NO boy under sixteen years of age, and no woman under the age of twenty-one, shall be allowed to have the care, custody, management, or working of any elevator or lift in any factory.

Management of elevators.

42. ALL records or notices kept or exhibited under this Act shall be legibly written or printed in the English language.

Notices to be in English.

43. (1.) THE Minister may require any building used as a factory which is constructed of iron, zinc, or tin to be lined with wood or other material to his satisfaction.

Iron buildings to be lined if required.

(2.) The Minister may require any such building roofed with iron, zinc, or tin, to be coated with white paint or whitewash or other cooling substance:

(3.) Provided, however, that the occupier shall be heard by the Minister.

Lavatories to be provided in factories.

44. IN every factory there shall, if required by the inspector, be constructed a sufficient number of water-closets or earth-closets and lavatories for the separate use of each sex.

Bakehouses.

45. IN the case of every bakehouse the following rules shall at all times be observed:—

- (1.) Once at least within every six months all the inside walls, ceilings, and roofs of the factory, and of every room therein, and all the passages and staircases therein, shall be thoroughly cleansed with lime-wash, or with such other cleansing agent as is approved by the inspector:

But if within the previous seven years they have been properly oil-painted with at least three coats of paint, or varnished with at least three coats of varnish, then soap and hot water may be used instead of lime-wash.

- (2.) For the purposes of the last preceding subsection, the occupier shall furnish from time to time evidence to the satisfaction of the inspector as to how and when the aforesaid portions of the factory and its rooms were cleansed, painted, or varnished, as the case may be.
- (3.) A place on the same level with the bakehouse and forming part of the same building shall not be used as a sleeping-place unless such place is effectually separated from the bakehouse by a partition extending from floor to ceiling, and is also fitted with an external glazed window of at least nine square feet in area, of which at least four and a-half square feet are made to open for ventilation.
- (4.) A closet or ashpit shall not be suffered to exist within or to be connected directly with the bakehouse.
- (5.) For the purposes of the two last preceding subsections, "bakehouse" means any room or part of the factory in which flour, bread, or other food products are kept or treated, or any baking or bread-making process is carried on.
- (6.) Every cistern or pipe for supplying water to the factory shall be separate and distinct from any cistern supplying water to a closet.
- (7.) A drain or pipe for carrying off fœcal matter or sewage shall not, unless properly trapped, have an opening within the factory.

The Governor may from time to time, by notice in the *Government Gazette*, extend in whole or in part, or with modifications, as he thinks fit, the provisions of subsections one and two of this section to any other class or description of factory, and in such case those provisions shall extend and apply according to the tenor of the notice.

Power to extend provisions as to lime-washing.

46. NO person of the Chinese or other Asiatic race shall be—

Registration of Asiatics.

- (a.) Registered as the owner or occupier of a factory unless he satisfies the Minister that he carried on the business which he proposes to carry on in such factory before the first day of November, One thousand nine hundred and three; or
- (b.) Employed or engaged by the occupier of a factory in or about the factory, unless the occupier satisfies the inspector that such person was so employed or engaged in a factory on or immediately before the date last aforesaid.

47. EVERY cabinet-maker and dealer in furniture who sells or offers for sale goods manufactured wholly or partly by Asiatic labour, and whether imported or manufactured in Western Australia, shall stamp such goods, in the prescribed manner, with the words "Asiatic labour."

Goods manufactured by Asiatics to be stamped.

48. IN any proceedings against the occupier of a factory for employing any person in breach of this Act,—

Evidence as to person employed in breach of Act.

- (1.) Proof of the person being found in any part of a factory in which the work of the factory is going on shall be *prima facie* evidence that the person was then being employed in the factory; and
- (2.) When a person employed is, in the opinion of the Justices, apparently of the age alleged by the complainant, it shall lie on the defendant to prove that such person is not of that age.
- (3.) When any person apparently of the Chinese or other Asiatic race is found in a factory, it shall be deemed that he was employed therein, and it shall lie on the defendant to prove that such person was not employed therein.

49. IN computing, for the purposes of this Act, the number of persons employed in a factory, the occupier, or, if the occupier is married, then the occupier together with the husband or wife, as the case may be, shall be considered as one person so employed.

Mode of computing persons employed in factory.

Adjacent buildings included in factory.

50. WHERE the operations of a factory are carried on in several adjacent buildings, enclosures, or places, all of them shall be included as one and the same factory.

Exemption of occupier from penalty upon proof of another being the real offender.

See N.Z. Act, No. 67, 1901, s. 56.

N.S.W. Act, No. 38, 1899, s. 17.

51. WHERE any act or default constituting an offence against this Act, or a breach of any regulation thereunder, for which any occupier of a factory is liable to a penalty has in fact been done or committed by some other person, such other person shall be liable to the penalties imposed.

Where such occupier is charged with any such act or default so done or committed by some other person, the said occupier shall be exempt from any penalty upon proving that he supplied proper means and issued proper orders for the observance, and used diligence to enforce the observance of this Act, and that the said act or default was actually done or committed by some other person without his connivance, and that he had done all that could reasonably be expected of him to prevent the offence.

Where an inspector is satisfied, before instituting a proceeding for any such offence against the said occupier, that such occupier, if such proceedings were instituted against him would, under the foregoing provisions of this section, be exempt from any penalty, and the said occupier gives all facilities in his power for proceeding against and convicting the person whom the inspector believes actually to have been guilty of the act or default constituting the offence, the inspector shall proceed against that person in the first instance without first proceeding against the said occupier.

Compulsory officers under Education Acts to have certain powers.

52. EVERY compulsory officer employed under any Act relating to public elementary education shall, by virtue of his office, have all the powers conferred by this Act on an inspector, so far as may be necessary to enable such compulsory officer to discover any breach of section twenty-five of this Act.

Provisions as to requisitions by inspector to occupiers.

N.Z. Act, No. 59, 1901, s. 63.

53. WITH respect to requisitions under this Act by the inspector to the occupier of a factory, the following provision shall apply:—

- (1.) The requisition shall be in writing under the hand of the inspector, and shall be addressed to and served on the occupier.
- (2.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the factory:
- (3.) The requisition, when served as aforesaid, shall bind every person who by section two is included in the definition of "Occupier."

- (4.) If the occupier considers any requisition necessitating the expenditure of money exceeding five pounds to be unreasonable, he may appeal to the Magistrates of the Local Court of the district within which the factory is situated, by delivering, within the prescribed time, to the clerk of the Court and to the inspector, a notice of appeal, in the prescribed form, setting forth the grounds of appeal.
- (5.) Upon the notice of appeal being delivered, the magistrate shall fix a time for the hearing of the appeal, and the clerk of the Court shall, by notice in the prescribed form, notify the appellant and the inspector that the appeal will be heard by the Magistrate at the time so fixed.
- (6.) On the hearing of the appeal the Magistrate may, by order, confirm, reverse, or modify the requisition as he thinks fit.

54. EVERY inspector shall, in relation to factories, have all the powers of an inspector appointed under the Health Act, 1898, and the powers and duties of inspectors appointed under that Act shall, in relation to factories, be exercised by inspectors appointed under this Act, under the direction and control of the Central Board of Health. Powers of an inspector.

55. EVERY person who personates an inspector in any certificate, or falsely pretends to be an inspector, shall be liable on summary conviction to imprisonment with hard labour not exceeding six months. Penalty for personating an inspector.

56. (1.) ANY person who— Penalties.

- (a.) Commits any breach of, or neglects to comply with any of the provisions of this Act, or of any order or request of the Minister or an inspector made in pursuance of this Act; or
- (b.) Fails to keep a factory in accordance with this Act; or
- (c.) Obstructs an inspector in the execution of his duties;

shall be liable, on summary conviction, to a penalty not exceeding ten pounds; and if the offence is a continuous one, to a further penalty not exceeding five pounds for every day on which the offence continues after the first day.

(2.) The Justices, in addition to or instead of inflicting a penalty, may order certain means to be adopted by the occupier within some time to be named in the order for the purpose of bringing his factory into conformity with this Act, and may, upon

application, enlarge the time so named; and if after the expiration of the time originally named, or enlarged upon subsequent application, the order is not complied with, or the factory closed and the registration cancelled, the occupier shall be liable to a penalty not exceeding five pounds for every day that such non-compliance continues.

(3.) On a second conviction of the occupier of a factory, the Minister may, in his discretion, cancel the registration of the factory.

Informations for offences.

57. IN all proceedings taken against any person for any breach of or offence against this Act, or of any regulation thereunder—

(1.) The information may be laid in the name of an inspector or police officer, or of any person aggrieved.

(2.) It shall be sufficient to allege in the information that the factory was a factory within the meaning of the Act.

(3.) Judicial notice shall be taken of every proclamation and of the appointment of every inspector.

Onus of proof.

(4.) The onus of proof that articles prepared or manufactured or made are not prepared or manufactured or made for sale shall in all cases be on the defendant.

(5.) The onus of proof that the person named in a summons as an employee of the defendant in a certain capacity was not employed in the capacity named in such summons shall in all cases be on the defendant.

(6.) In any proceedings against the occupier of a factory for employing any person in excess of the hours of employment permitted by this Act, the contents of the notice affixed by the occupier containing the working hours of the factory shall be conclusive evidence of the facts therein stated.

(7.) A person who, on inspection, appears to the Justices to be of the Chinese or other Asiatic race shall be deemed to be of such race, and it shall lie on the defendant to prove the contrary.

Inspectors to furnish local reports.

58. EVERY inspector shall, as and when prescribed by regulation or by the Minister, furnish to the Minister a report in the prescribed form as to the operation of this Act in the district in which the inspector has been acting.

Annual report.

59. AN annual report of the operation of this Act throughout the State shall be laid before Parliament.

Regulations.

60. THE Governor may make regulations and may impose any penalty not exceeding five pounds for any breach thereof.

THE SCHEDULE.

Section 13.

FEES ON REGISTRATION OF FACTORY.

	<i>£</i>	<i>s.</i>	<i>d.</i>
Where the maximum number of persons to be engaged in the factory does not exceed seven	0	5	0
Where such number exceeds seven but does not exceed fifteen	0	10	0
Where such number exceeds fifteen but does not exceed thirty	1	1	0
Where such number exceeds thirty	2	10	0

Where the occupier or intending occupier of a factory, or any person employed in or about a factory, is of the Chinese or other Asiatic race, there shall be paid a fee of Five pounds, and the registration of every such factory shall be renewed and such fee be paid annually.