

# FACTORIES AND SHOPS.

10° AND 11° GEO. VI., No. LX.

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No. 60 of 1946.

**AN ACT** to amend the **Factories and Shops Act,**  
1920-1937.

[Assented to 24th January, 1947.]

**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative 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, (No. 3), 1946*, and shall be read as one with the *Factories and Shops Act, 1920-1937* (Act No. 44 of 1920 as reprinted pursuant to the Amendments Incorporation Act, 1938, with amendments up to and including Act No. 54 of 1937, in Volume 1 of the Reprinted Acts of the Parliament of Western Australia, and amended by No. 26 of 1939), hereinafter referred to as the principal Act.

Short title.  
cf. Act No. 54  
of 1937,  
s. 54

2. Section four of the principal Act is amended by inserting after the words "trade or sale;" in line four of paragraph (1) of the definition of "Factory" the words "and includes any building, premises or place in

Amendment  
of s. 4.

which one or more persons are so engaged as paid employees for the purpose of the employer's trade or business;".

Repeal of  
s. 28.

3. Section twenty-eight of the principal Act is repealed.

Repeal of  
s. 30.

4. Section thirty of the principal Act is repealed.

Amendment  
of s. 39.

5. Section thirty-nine of the principal Act is amended as follows:—

- (a) By inserting at the commencement thereof the brackets and figure '(1).'
- (b) By inserting after the words "New Year's Day" where they occur in lines five and eight, the words "Australia Day."
- (c) By inserting after the words "Good Friday" in line five the words "Easter Saturday."
- (d) By inserting after the words "Labour Day" in line six and after the words "Anzac Day" in line eight the words "Foundation Day."
- (e) By deleting the words "and birthday of the reigning Sovereign" in lines six and seven and the words "or birthday of the reigning Sovereign" in lines eight and nine, and
- (f) By adding thereto a subsection as follows:—
  - (2) In addition to the holidays mentioned in subsection (1) of this section, the occupier of a factory shall allow to every person employed in the factory such period of annual leave (if any) with payment of such person's ordinary wages as is required to be allowed by an employer to a worker under and subject to the provisions of the Award for the time being in force under the Indus-

trial Arbitration Act, 1912-1941, governing the employment of shop assistants in the Metropolitan Area of Perth in the circumstances and upon and subject to the terms and conditions therein prescribed: Provided that for the purposes of this subsection any reference in such Award to a casual worker shall be deemed to be a reference to an employee who is employed by the same occupier for less than six consecutive working days.

6. A new section is inserted after section thirty-nine of the principal Act as follows:—

New section  
39A.

39A. The occupier of a factory shall allow to every person employed in the factory payment for non-attendance at the factory caused by such person's personal ill-health for one-half day for each completed month of service: Provided that—

Payment for  
non-atten-  
dance through  
ill-health.

- (a) liability under this section for payment for such non-attendance caused by such ill-health shall be limited to six days in each calendar year;
- (b) this section shall not apply in any case where the person employed as aforesaid is, in respect of any such non-attendance, entitled to compensation under the Workers' Compensation Act, 1912-1944; nor where such non-attendance arises out of such person's own wilful default; and
- (c) no such person shall be entitled to benefit under this section unless and until he produces to the occupier satisfactory proof of his sickness causing the non-attendance, but the occupier shall not be entitled to production of a certificate under the hand of a duly qualified medical practitioner certifying to such sickness unless the non-attendance extends over at least three days.

Amendment  
of s. 116.

7. Section one hundred and sixteen of the principal Act is amended as follows:—

- (a) by inserting at the commencement thereof the brackets and figure “(1)”;
- (b) by inserting after the word “shops” in line six thereof the words “and warehouses”; and
- (c) by adding thereto a subsection as follows:—

(2) In addition to the holidays mentioned in subsection (1) of this section, the shopkeeper shall allow to each shop assistant such period of annual leave (if any) with payment of such shop assistant's ordinary wages as is required to be allowed by an employer to a worker under and subject to the provisions of the Award for the time being in force under the Industrial Arbitration Act, 1912-1941, governing the employment of shop assistants in the Metropolitan Area of Perth in the circumstances and upon and subject to the terms and conditions therein prescribed: Provided that for the purposes of this subsection any reference in such Award to a casual worker shall be deemed to be a reference to a shop assistant who is employed by the same shopkeeper for less than six consecutive working days.

New section  
116A.

8. A section is inserted after one hundred and sixteen of the principal Act as follows:—

Payment for  
non-atten-  
dance through  
ill-health.

116A. Every shopkeeper shall allow to each shop assistant employed in the shop, or about the business of the shop, payment for non-attendance at the shop caused by the shop assistant's personal ill-health for one half-day for each completed month of service: Provided that—

- (a) liability under this section for payment for such non-attendance caused by such ill-health shall be limited to six days in each calendar year;
- (b) this section shall not apply in any case where the shop assistant is, in respect of any such non-attendance, entitled to com-

pensation under the Workers' Compensation Act, 1912-1944; nor where such non-attendance arises out of the shop assistant's own wilful default; and

- (c) no shop assistant shall be entitled to benefit under this section unless and until he produces to the shopkeeper satisfactory proof of his sickness causing the non-attendance, but the shopkeeper shall not be entitled to production of a certificate under the hand of a duly qualified medical practitioner certifying to such sickness unless the non-attendance extends over at least three days.

9. Section one hundred and thirty-eight of the principal Act is amended as follows:—

Amendment  
of s. 138.

- (a) By deleting from paragraph (a) thereof all words after the words "agreed on" in line four down to the end of the paragraph and inserting in lieu thereof the following:—

"Provided that (notwithstanding any agreement purporting to fix a lesser sum) the employee shall, according to the employee's age and sex, be entitled to be paid at a rate of wage not less than the rate of wage set out in the award for the time being in force under the Industrial Arbitration Act, 1912-1941, governing the employment of shop assistants in the Metropolitan Area of Perth, under the heading of the classification of the minimum weekly wage payable to junior shop assistants: Provided that no employee shall be entitled under this paragraph to be paid at a higher rate of wage than that payable to a male or female worker over twenty-one years of age under the provisions of paragraph (g) of this section."

The minimum rate of wages provided for in this paragraph shall be subject to variation in accordance with adjustments to the basic wage as declared from time to time by the

Court under the provisions of the Industrial Arbitration Act, 1912-1941, and applying to the particular area in which the employee is employed.

New paragraph (h).

(b) By inserting at the end thereof a new paragraph as follows:—

Notice of termination of employment.

(h) Unless otherwise expressly agreed in writing, the notice necessary to terminate any employment shall be one week's notice: Provided that an occupier may at any time dismiss a person employed in the factory, shop or warehouse for refusal to obey orders, or for misconduct, or for neglect after receiving one week's notice, to carry out his duties in a reasonably satisfactory manner, having regard to the circumstances of the case. Provided that this paragraph shall not apply in the case of any person who is employed as a casual worker. For the purpose of this paragraph the term casual worker shall mean a worker employed for less than six consecutive working days.

Citation of principal Act as amended.

10. The principal Act as amended by this Act may be cited as the Factories and Shops Act, 1920-1946.