

THE FACTORIES AND SHOPS ACT, 1920-1937.

No. 44 of 1920.

(Reprinted as amended by Acts No. 4 of 1922, No. 41 of 1923, No. 6 of 1932, and No. 54 of 1937, pursuant to the Amendments Incorporation Act, 1938.)

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FACTORIES AND SHOPS.

No. 44 of 1920.

Reprinted as amended by Acts No. 4 of 1922*, No. 41 of 1923†, No. 6 of 1932‡, and No. 54 of 1937§, and pursuant to the Amendments Incorporation Act, 1938.

AN ACT to consolidate and amend the Law relating to the Supervision and Regulation of Factories and Shops.

[Assented to 31st December, 1920.]

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 and Shops Act, 1920-1937* and shall come into operation on a day to be fixed by proclamation.¶

Short title and commencement.
cf. No. 54 of 1937, s. 54.

2. This Act is divided into Parts, as follows:—

Division.
Formerly s. 2 of No. 44 of 1920 (s. 2 in 1928 re-print).

- PART I.—PRELIMINARY.
- PART II.—ADMINISTRATION AND OFFICERS.
- PART III.—REGISTRATION OF FACTORIES.
- PART IV.—REGULATIONS OF FACTORIES AND FACTORY WORK.
- PART V.—RESTRICTIONS RELATING TO PERSONS NOT OF FULL AGE.
- PART VI.—PROVISIONS RELATING TO HEALTH, SANITATION, AND SAFETY.
- PART VII.—SPECIAL PROVISIONS FOR CERTAIN TRADES.

* Assented to 31st January, 1922; † Assented to 22nd December, 1923; ‡ Assented to 31st October, 1932; § Assented to 18th January, 1938; ¶ Proclaimed to commence 7th January, 1921 (see *Gazette*, 31st December, 1920).

PART VIII.—THE CLOSING OF SHOPS.**PART IX.—PROVISIONS RELATING TO EMPLOYMENT OF ASSISTANTS IN SHOPS.****PART X.—REGISTRATION OF SHOPS AND WAREHOUSES.****PART XI.—SANITATION OF SHOPS AND WAREHOUSES.****PART XII.—SUPPLEMENTAL.****Repeal.**

First
Schedule.

Formerly s. 3
of No. 44 of
1920 (s. 3 in
1928 re-
print).

3. The Acts mentioned in the First Schedule are hereby repealed.

**Interpreta-
tion.**

Formerly s. 4
of No. 44 of
1920 (s. 4 in
1928 re-
print).

Amended by
No. 54 of
1937, s. 2.

4. In this Act, unless the context otherwise requires,—

“Bake-house” means any place in which any bread, cake, pastry, sweetmeats, or sugar goods intended to be sold are baked or prepared for baking, and includes any place or room used in connection with the bakehouse for storing such food when baked or to be baked, or any material to be used for the manufacture of such food to be baked;

“Boarding-house” means and includes any place in which meals are sold or offered for sale to the public and any place in which ten or more boarders or lodgers apart from members of the family are in residence;

“Boy” means every male person under the age of sixteen years;

“Child” means a male person under the age of fourteen years, or a female under the age of fifteen years;

“Closed” means closed to the admission of the public;

“Continuous process” means for the purposes of this Act any trade or process which is carried on in any factory for not less than sixteen hours continuously in one day, and at which the persons employed therein are required to work in shifts of two or more in any period of twenty-four hours;

“District” means a shop district established under this Act;

“Employed” or “Engaged” means engaged in work of any kind, whether for pay or not, other than work of repairing buildings, plant, or machinery, and includes in its application occupier and employee;

“Employee” means any person in the employment of an occupier; and any person who works in a factory whether for pay or not, at any kind of work whatever, or who is employed by the occupier in delivering goods to or from the factory, shall be deemed to be an employee and to be employed within the meaning of this Act; but does not include any contractor or employee of a contractor engaged in the work of repairing any building, plant, or machinery;

“Factory” means and includes —

(1) Any building, premises, or place in which four or more persons are engaged, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale; but does not include any building in course of erection, nor any temporary workshop or shed for workmen engaged in the erection of such building;

(2) Any building, premises, or place in which a person or persons of the Chinese or other Asiatic race is or are so engaged;

(3) Any building, premises, or place where steam or other mechanical power or appliance exceeding one horse power is used in preparing, working at, or manufacturing goods or packing them for transit;

(4) Any bake-house;

(5) Any building, premises, or place in which articles or goods which are intended for human consumption are manufactured or prepared for sale, but shall not include the kitchen of any shop of the class mentioned in the Fourth Schedule;

(6) Any building, premises, or place in which electrical energy is generated or transformed as an illuminant or a motive power for trade or sale or in which coal gas or any other form of gas is produced for the like purposes;

(7) Any laundry (meaning thereby every building, premises, or place where laundry work is performed for hire or reward) whether the persons engaged therein receive payment or not; and

(8) Any clay-pit or quarry worked in connection with and occupied by the occupier of any pottery or brickyard;

But the term "factory" does not include—

(a) any prison, or any industrial or reformatory school; or

(b) Any building, premises, or place in which the occupier manufactures or prepares dairy produce from the products of his own herd; or

(c) any ship; or

(d) any building, premises, or place used exclusively for pastoral, agricultural, orchard, vineyard, or garden 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 engaged in any trade, operation or process mentioned in paragraphs 1 to 8, inclusive, of this definition 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 in excess of one horse power is used in aid of the manufacturing process carried on there, and where the only persons engaged do not exceed four and are members of the same family, and dwelling there;

Amended by
No. 54 of
1937, s. 2(a).

"Furniture" means furniture of which wood or metal forms a part, and includes picture frames, venetian blinds, mantels, and over-mantels, lattice work, and furniture which is manufactured from reeds, rattan, cane, or sea-grass;

"Handicraft" includes any work whatsoever done in any laundry or dyeworks, and whether or not done in preparing or manufacturing articles for trade or sale;

- “Half-year” means a period commencing with the first day of January and ending with the thirtieth day of June, or a period commencing with the first day of July and ending with the thirty-first day of December, or any other period of six calendar months selected under this Act;
- “Inspector” means an inspector of factories appointed under this Act, and includes chief inspector;
- “Local Authority” means a municipal council, road board, or local board of health;
- “Mill-gearing” includes every shaft, whether upright, oblique, or horizontal, and every wheel, drum, or pulley, or appliance by which the motion of the first moving power is communicated to any machine in a factory;
- “Occupier” means the person occupying any building, premises or place used or intended to be used as a factory, shop or warehouse, and includes any agent, manager, foreman, or other person acting in the general management or control of a factory, shop or warehouse, and, in factories, shops, or warehouses occupied by a body of persons, corporate or unincorporate, the working manager shall also be deemed to be included in the term “occupier”;
- “Owner” means the person for the time being receiving the rack rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rack rent;
- “Privy” includes water closet, earth closet, and urinal;
- “Public Holiday” means Christmas Day, Anzac Day, Boxing Day, New Year’s Day, Good Friday, Easter Monday, and any other day declared by proclamation to be a public holiday for the purposes of this Act, and includes, as regards any particular district, any day so declared to be a public holiday in that district;

“Rack rent” means rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises; and the full net annual value shall be deemed to be a sum equal to the estimated full fair average amount of rent at which the property may reasonably be expected to let from year to year, on the assumption (if necessary to be made) that such letting is permissible by law, less the amount of all rates and taxes, and a deduction of twenty pounds per centum for repairs, insurance, and other out-goings;

Amended by
No. 54 of
1937, s. 2
(b).

“Shop” means any building or place, or portion of a building or place, or any stall, tent, vehicle, or boat in or from which goods are sold or exposed or offered for sale by retail, and includes any premises in which any business described in the Fourth Schedule is carried on 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;

“Shop assistant” means any person who is employed in or about the business of a shop, and includes—

(a) any person in the shopkeeper’s employment who is engaged in selling or delivering or packing his goods, or canvassing for orders for his goods, whether such person is at any time actually employed inside the shop or not;

(b) any person employed in a restaurant, coffee palace, boarding-house, or refreshment shop, or in premises in respect of which a publican’s general, wayside house, Australian wine and beer, or hotel license is in force, whether such person is employed in connection with the sale of goods or not;

(c) any clerk who is employed in connection with the business of any shop or warehouse, and

in the building in which such business is carried on:

Provided that any person who is employed by the shopkeeper only when the shop is closed shall not be deemed a shop assistant;

“Shopkeeper” means person, partnership, or corporation occupying a shop directly or indirectly as principal, and any agent or other person acting in the management or control of a shop;

“Statutory declaration” means a declaration under section one hundred and six of the Evidence Act, 1906;

“Warehouse” means any building, premises, or place in or from which goods are sold, offered for sale, or distributed by wholesale only;

“Week” means the period between midnight on Saturday night and midnight on the succeeding Saturday night, or any other period of seven days selected under this Act;

“Week-day” means any day of the week except Sunday;

“Woman” means a female irrespective of age;

“Working-day” means any day of the week except Sunday, Good Friday, or Christmas Day.

PART II.—ADMINISTRATION AND OFFICERS.

5. The general administration of this Act shall be under the control of the Minister of the Crown appointed by the Governor.

Minister.
Formerly s. 5 of No. 44 of 1920 (s. 5 in 1928 re-print).

6. (1) The Governor shall from time to time appoint for the due administration of this Act, subject to the control of the Minister, some fit and proper person to be Chief Inspector of Factories and may also appoint some fit and proper person to be Assistant Chief Inspector of Factories who—

Chief Inspector of Factories.
Formerly s. 6 of No. 44 of 1920 (s. 6 in 1928 re-print).
Amended by No. 54 of 1937, s. 3.

(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;

Amended by No. 54 of 1937, s. 3 (a).

- (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.

Inserted by
No. 54 of
1920 (s. 8
(b)).

(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.

Inspectors.
Formerly s. 7
of No. 44 of
1920 (s. 7 in
1928 re-
print).

7. (1) The Minister may from time to time appoint and dismiss fit persons of either sex to be inspectors of factories, shops and warehouses or of any one or more of such classes of premises.

Amended by
No. 54 of
1937, s. 4.
Amended by
No. 54 of
1937, s. 4
(a).

(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.

Inserted by
No. 54 of
1937, s. 4
(b).

(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.

Inserted by
No. 54 of
1937, s. 4
(b).

Inspectors
may hold
office with
other office.
Formerly s. 8
of No. 44 of
1920 (s. 8 in
1928 reprint).

8. 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.

Inspector to
have certifi-
cate of ap-
pointment.

9. (1) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to a factory or shop he shall, if required, produce such certificate to the occupier.

Formerly s. 9
of No. 44 of
1920 (s. 9 in
1928 reprint).

(2) Every inspector shall before entering on the performance of his duties under this Act take and subscribe before a justice of the peace an oath or affirmation to the effect that he will not, except for the purposes of this Act and the exercise of his duties hereunder, disclose to any person any information acquired by him in his official capacity, and every person who wilfully acts in contravention of the true intent of such oath or affirmation shall be guilty of an offence.

Penalty: One hundred pounds.

10. Any inspector appointed under this Act may be an inspector for the whole State or for any district defined by proclamation, as the Governor may determine. In the absence of any such determination applicable to him, the authority of an inspector shall be deemed to extend over the whole State.

Inspector may act for whole State or proclaimed district.
Formerly s. 10 of No. 44 of 1920 (s. 10 in 1928 reprint).

11. Every inspector may—

- (a) enter, inspect, and examine a factory, shop, or warehouse at all reasonable hours by day and night, when he has reasonable cause to believe that any person is at the time employed therein; and enter by day any place which he has reasonable cause to believe to be a factory, shop, or warehouse;
- (b) take with him in either case a member of the police force to assist him in the execution of his duty;
- (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act and of any regulations made hereunder, and of all laws, regulations, and by-laws relating to public health, and of all industrial awards and agreements are complied with, so far as respects the factory, shop, or warehouse, and the persons employed therein;
- (d) require and oblige any person whom he finds in a factory, shop, or warehouse, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory, shop, or warehouse, to answer any question touching any matter arising under any such provisions as aforesaid, and require such person to make and sign a statutory declaration (which shall be exempt from stamp duty) of the truth of the matters respecting which he is so questioned:

Powers of inspectors.
Formerly s. 11 of No. 44 of 1920 (s. 11 in 1928 reprint).

Provided that no person shall be required to answer any question tending to criminate himself;

- (e) require the production of any certificate of registration held by the occupier or shopkeeper or any book, notice, record, list, or other document which the occupier of a factory or ware-

- house or shopkeeper is by this Act or any other Act required to keep or exhibit therein, and inspect, examine, and copy the same;
- (f) exercise such other powers and authorities as may be necessary for carrying this Act into effect;
 - (g) take with him into any place any person whom he may think qualified to act as an interpreter, and whose assistance he shall deem necessary in the performance of his duties;
 - (h) require the production of all pay-sheets or books wherein an account is kept of the actual wages (whether by piece-work or not) paid to any individual employee, and take copies of or extracts from the same.

Inquiries by interpreter.

Formerly s. 12 of No. 44 of 1920 (s. 12 in 1928 reprint).

12. (1) Any question, inquiry, or requisition to any occupier or shopkeeper or his agent or employee or to any other person made on behalf of an inspector by any person so acting as interpreter shall, for all purposes, be deemed to have been actually made by the inspector, and the answer thereto made by an occupier or shopkeeper, agent, employee, or person to the person acting as interpreter shall be deemed to have been actually made to the inspector.

(2) Any person who obstructs any person acting as an interpreter for an inspector shall be deemed to have obstructed the inspector in the execution of his duties, and shall be punishable accordingly.

Occupiers to allow entry and inspection.

Formerly s. 13 of No. 44 of 1920 (s. 13 in 1928 reprint).

13. (1) The occupier of a factory, shop, or warehouse, 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, shop, or warehouse.

(2) Except for the purposes of this Act and the exercise of his functions under this Act, no inspector or interpreter shall disclose to any person any information which, in the exercise of such functions, he acquires respecting any factory, shop, or warehouse.

Penalty: Fifty pounds.

14. (1) Every inspector who holds a certificate from the Commissioner of Public Health that in his opinion such inspector is competent to exercise the powers conferred by this section shall, in relation to factories, shops, and warehouses, exercise all the powers of an inspector appointed under Section 11 of the Health Act, 1911-1937.

Powers of an inspector.
Formerly s. 14 of No. 44 of 1920 (s. 14 in 1928 reprint).

(2) If any inspector observes in any factory, any breach of the Health Act, 1911-1937, or the regulations or by-laws made thereunder, or, if any inspector is of the opinion that to secure proper sanitary conditions in any factory, the exercise of certain of its powers by the local health authority is necessary, then he shall notify the local health authority accordingly, and in such notification may specify a reasonable time within which such local authority shall enforce the provisions of the said Act.

(3) If any such local health authority fails to enforce the provisions of the said Act, or to exercise its powers thereunder within the time specified in the inspector's notification, then the inspector may exercise the powers of a local authority for the purpose of carrying out the terms of such requisition.

(4) Should the local authority take exception to any requisition under subsection (2) hereof it may appeal to the Commissioner of Public Health, who may uphold, revoke, vary, or alter the requisition of the inspector, and the decision of the Commissioner shall be final.

15. No person—

- (a) shall obstruct any inspector or other official in the execution of his duties under this Act; or
- (b) being lawfully required by an inspector shall fail to produce or exhibit any document or allow any document to be examined; or
- (c) shall wilfully mislead any inspector or other official in any particular likely to affect the discharge of his duty; or
- (d) being lawfully required to answer any question by any inspector pursuant to this Act shall fail to answer the same truthfully to the best of his knowledge, information, and belief.

Penalty for obstructing officials and similar offences.

Formerly s. 15 of No. 44 of 1920 (s. 15 in 1928 reprint).

Penalty: Ten pounds.

Personating
an inspector
—Penalty
for.

Formerly s.
16 of No. 44
of 1920 (s.
16 in 1928
reprint).

16. Every person who personates an inspector or makes any fraudulent use of a certificate issued to an inspector under this Act, or falsely pretends to be an inspector shall be liable on summary conviction to imprisonment for a term not exceeding six months.

Obstruction
of inspector.

Formerly s.
17 of No. 44
of 1920 (s.
17 in 1928
reprint).

17. 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 alone before or being examined by an inspector.

PART III.—REGISTRATION OF FACTORIES.

Factories to
be registered.

Formerly s.
18 of No. 44
of 1920 (s.
18 in 1928
reprint).

18. Except as hereinafter provided, it shall not be lawful for any person to occupy or use as a factory any building, premises, or place unless the same is duly registered as a factory under this Act.

Amended by
No. 54 of
1937, s. 5.

Daily penalty: Five pounds.

[*Subsection (2) deleted by No. 54 of 1937, s. 5.*]

Application
for registra-
tion.

Formerly s.
19 of No. 44
of 1920 (s.
19 in 1928
reprint).

19. (1) Application for registration shall be made to the Chief Inspector 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.

(2) In addition to his application, the applicant shall also deliver to the Chief Inspector a sketch plan of the intended factory to the satisfaction of the Chief Inspector.

(3) In any case where a satisfactory plan has been delivered in connection with any previous application for registration of the same factory it shall be sufficient if, in lieu of delivering a fresh plan, the applicant refers the Chief Inspector to the previous one.

20. (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.

Registration. Formerly s. 20 of No. 44 of 1920 (s. 20 in 1928 reprint); amended by No. 54 of 1937, s. 6. Original subsection (1) repeated and new subsection (1) inserted by No. 54 of 1937, s. 6 (a).

(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—

Original subsection (2) repeated and new subsection (2) inserted by No. 54 of 1937, s. 6 (a).

(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.

Amended by
No. 54 of
1937, s. 6
(b).

(3) If the applicant is dissatisfied with 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, he may appeal to the magistrate of the local court held nearest to the factory, and the provisions relating to appeals with respect to requisitions by inspectors shall apply.

Provisions as
to requisitions by
inspector to
occupiers.

Formerly s.
21 of No. 44
of 1920 (s.
21 in 1928
reprint).

21. With respect to requisitions under this Act by the inspector to the occupier of a factory, shop, or warehouse, 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, shop, or warehouse.
- (3) The requisition, when served as aforesaid, shall bind every person who by section four 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 magistrate of the local court held nearest to the place which the factory, shop, or warehouse 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 shall 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.
- (7) It shall not be unlawful for the occupier of an unregistered factory to carry on the business of such factory pending the decision of the magistrate of the local court in the case of an appeal under this section.

22. When any structural alterations or building additions are required by or under this Act to be made in or to a factory, the Minister may, by notice in the prescribed form, notify the owner of the factory that he will regard such owner, for the purpose of the making of such alterations or additions, as the occupier of the factory, and thereafter the said owner shall for that purpose be deemed to be the occupier of the factory: Provided this section shall only apply where the occupier of a factory is a tenant under a lease or agreement made after the commencement of this Act.

Minister may declare the owner to be "occupier" of a factory for the purpose of effecting structural alterations.
Formerly s. 22 of No. 44 of 1920 (s. 22 in 1928 reprint).

[Section 23 of No. 44 of 1920 (section 23 in 1928 reprint) repealed by No. 54 of 1937, s. 7.]

[Section 24 of No. 44 of 1920 (s. 24 in 1928 reprint) repealed by No. 54 of 1937, s. 8.]

23. Every registration of a factory under this Act shall operate only during the current calendar year, and after the thirty-first day of December of that year the factory shall (unless re-registered) become unregistered.

Duration of registration.
Formerly s. 25 of No. 44 of 1920 (s. 25 in 1928 reprint).

24. The fees payable on a registration shall be those set out in the Second Schedule hereto; but when any factory is first occupied in any year after the thirtieth day of June, the fee to be paid for that year on registration shall be one half of the annual fee.

Fees payable.
Second Schedule.
Formerly s. 26 of No. 44 of 1920, as amended by No. 4 of 1922, s. 2 (s. 26 in 1928 reprint).

[Section 27 of No. 44 of 1920 (section 27 in 1928 reprint) now section 137 in this reprint.]

Re-registration governed by the provisions applicable to registration. Formerly s. 28 of No. 44 of 1920 (s. 28 in 1928 reprint).

25. Re-registration of a factory registered under this Act shall be subject to the payment of such fee as is payable on a registration, and shall be effected in manner prescribed by regulations, and, subject thereto, the provisions and expressions in this Act referring to or including registration shall refer to or include re-registration.

Registration of Asiatics. Formerly s. 29 of No. 44 of 1920 (s. 29 in 1928 reprint).

26. No person of the Chinese or other Asiatic race shall be—

- (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.

PART IV.—REGULATION OF FACTORIES AND FACTORY WORK.

Records and notices by occupiers. Formerly s. 30 of No. 44 of 1920 (s. 30 in 1928 reprint).

27. Every occupier of a factory shall—

- (a) make and keep a true record of the names, nature of work, and wages of the persons employed in such factory, the age of every such person under twenty-one years of age, and the period of employment of such persons; the inspector may require such record to be kept in the prescribed form;
- (b) produce such record for inspection, whenever demanded by an inspector, and forward annually at the prescribed time to the Chief Inspector such particulars as may be prescribed;
- (c) affix and keep affixed in legible characters in some conspicuous place, and so as to be easily read by his employees, a notice containing—
 - (i) the address of the Chief Inspector (or of the inspector for the district, if the factory is in a district);
 - (ii) the holidays and the working hours of the employees;

- (iii) true copies or abstracts of such parts of this Act and regulations thereunder as may be prescribed;
- (d) affix and keep affixed in legible characters, in such place as an inspector may direct or approve—
 - (i) the name of such occupier; or
 - (ii) if such occupier is a company, the registered name of such company; or
 - (iii) if such occupier is a firm, the firm name.

Penalty: Five pounds.

28. (1) Subject to the provisions of this Act, a male worker 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.

Hours of work in factories.
Formerly s. 31 of No. 44 of 1920 (s. 31 in 1928 reprint).

(2) The foregoing limits of working hours shall not be deemed to apply to any male worker employed in getting up steam for machinery in the factory, or in making preparations for the work in the factory, or to the trades referred to in the Third Schedule hereto.

Third Schedule.

29. (1) 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-four hours, excluding meal-times, in any one week; or
 - (b) for more than eight hours and a half, excluding meal-times, in any one day;
 - (c) on any holiday or at any time after one o'clock in the afternoon of the working day in each week on which a half-holiday is to be allowed as hereinafter mentioned; nor
 - (d) 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
 - (e) in the case of boys, at any time between the hours of six o'clock in the evening and a quarter to eight in the morning following.

Working hours of women and boys.
Formerly s. 32 of No. 44 of 1920 (s. 32 in 1928 reprint), and amended by No. 54 of 1937, s. 10.

(2) On any day all women and boys employed in any capacity in a factory shall (meal-times excepted) be deemed to be employed therein from the time when they commence work until the time they leave the factory.

Inserted by
No. 54 of
1937, s. 10.

(3) 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.

Power to
exempt.

Formerly s.
33 of No. 44
of 1920 (s.
33 in 1928
reprint).

30. The Minister may, by notice under his hand, exempt any factory from the operations of paragraph (b) of subsection (1) of section twenty-eight and paragraph (b) of subsection (1) of section twenty-nine for such time as he shall think fit, but such exemption shall not operate to render legal the employment of a male worker for more than ten hours on any day or for more than forty-eight hours in any week, or of any woman or boy for more than nine hours on any day, or for more than forty-four hours in any week, except as hereinafter provided.

Meal-times to
be allowed.

Formerly s.
34 of No. 44
of 1920 (s.
34 in 1928
reprint).

Amended by
No. 54 of
1937, s. 11.

31. Every worker (except a worker who is employed on a continuous process plant) shall be entitled to three-quarters of an hour for a meal between the hours of twelve o'clock noon and three o'clock in the afternoon, and also between the hours of five o'clock and eight o'clock in the evening, and no worker shall work or be required to work in or about any factory so as to lose or be deprived of either of such meal-times or any part thereof, or for longer (in the case of a woman or boy) than four and a-half hours, and (in any other case) than five hours without such a meal-time.

Penalty: Two pounds.

[Section 35 of No. 44 of 1920 (s. 35 in 1928 reprint), transposed by s. 54 of No. 54 of 1937, now s. 135 in this reprint.]

Prevention of
evasion of
working
hours.

Formerly s.
36 of No. 44
of 1920 (s.
36 in 1928
reprint).

32. 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.

33. (1) The prescribed number of working hours may from time to time be extended. Every person who is required to work such extended hours shall be paid therefor at the rate of not less than time and a quarter for the first two of such extended hours, and time and a-half thereafter; but such extensions shall not in the case of women and boys be—

Overtime.
Formerly s. 37 of No. 44 of 1920 (s. 37 in 1928 reprint).
Amended by No. 54 of 1937, s. 12.

- (a) more than two hours in any day; or
- (b) on more than two days in any week; or
- (c) on two consecutive days in any week; or
- (d) on more than fifty-two days in any year; or
- (e) on any holiday or half-holiday.

(2) On every such occasion no person shall be employed for more than four and a-half hours continuously without having an interval of at least half-an-hour for rest and refreshment.

(3) All work done by a worker on other than a working day shall be paid for at not less than half as much again as the ordinary rate:

Provided that in the case of women and boys when the ordinary rate is by time, and not by piece-work, the overtime rate shall not be less than sixpence per hour for those persons whose ordinary wages do not exceed ten shillings a week, and not less than ninepence per hour for all other persons so employed, and shall be paid at the first regular pay day thereafter.

34. (1) The occupier of a factory shall at all times keep a record showing, in the case of each person who is employed during such extended hours under the last preceding section, the name of the employee, and the respective dates and periods of such employment.

Record.
Formerly s. 38 of No. 44 of 1920 (s. 38 in 1928 reprint).

(2) The record shall at all times be open to the inspection of any inspector.

(3) Any inspector may at any time require the occupier to verify the entries in the record in such manner as may be prescribed by regulations.

35. The provisions of section thirty-three are hereby modified in the case of fruit canning factories, fruit drying factories, and jam factories, and condensed milk and milk products (other than butter) factories to the extent that the limitations as to overtime contained in paragraphs (b), (c), and (e), of subsection (1) thereof need

Special provisions as to overtime in fruit canning factories.
Formerly s. 39 of No. 44 of 1920 (s. 39 in 1928 reprint).
Amended by No. 6 of 1932, s. 2.

not be observed during the period between the first day of January and the first day of April in any year in the case of the factories, other than condensed milk and milk products (other than butter) factories, mentioned herein, and during the period between the first day of September in each year and the first day of February next following the same, in the case of condensed milk and milk products (other than butter) factories.

Special provision for extended hours.

Formerly s. 40 of No. 44 of 1920 as amended by No. 4 of 1922, s. 3 (s. 40 in 1928 reprint); amended by No. 54 of 1937, s. 13.

36. (1) In order to meet an unforeseen press of work or circumstances of an extraordinary nature, in special industries as prescribed by regulation, the Minister may from time to time exempt any one or all of such special industry or industries, or any factory in which work which is a necessary part of any trade or manufacture carried on in such industries is performed from the operations of paragraphs (b), (c), and (e) of subsection (1) of section thirty-three, for such periods as he may deem necessary, and may at any time revoke such exemption.

Amended by No. 4 of 1922, s. 3.

(2) If in any case where such exemption has been granted, the Minister, if not satisfied that the extra hours worked or to be worked were *bona fide* for the purpose of meeting an unforeseen press of work or circumstances of an extraordinary nature, shall give notice in writing of such dissatisfaction to the occupier of the factory, and unless the occupier of such factory within one month from such notice proves to the satisfaction of the Minister that such working was *bona fide* for such purpose, the Minister shall direct the Chief Inspector to make a record that such working was not *bona fide* for such purpose; and if the Minister directs such record to be made in regard to any occupier of a factory twice within any period of twelve months, such occupier shall not thereafter at any time be entitled to avail himself of the provisions of this section.

Provision as to notices for extended hours.

Formerly s. 41 of No. 44 of 1920 (s. 41 in 1928 reprint); amended by No. 54 of 1937, s. 14.

37. On every occasion when extended hours have been worked in accordance with the provisions of sections thirty-three, thirty-five or thirty-six, the occupier shall—

(a) within twenty-four hours of the commencement of such extra working, send to the Chief Inspector the prescribed written notice of having availed himself of the provisions of such section;

- (b) in a case where the provisions of section thirty-six have been availed of, give to the Chief Inspector with such notice a full statement signed by such occupier, of the facts on which he relies as showing that such working was in fact for the purpose of meeting an unforeseen press of work or circumstances of an extraordinary nature;
- (c) send to the Chief Inspector a notice in the prescribed form, specifying the names of the workers to whom the extension applied, and the period of the extension;
- (d) the occupier shall prior to the commencement of such extension post up in a conspicuous position in the factory a true copy of the notice referred to in paragraph (c);
- (e) the Chief Inspector shall cause to be kept a record of the names of all persons in respect of whom such notice applies, and shall note against the name of each the extended hours worked by him or her, so that the full amount of overtime permitted shall not in any case be exceeded;
- (f) in every case where a woman or boy is required to work extended hours the occupier shall, in addition to any payment for overtime, provide every such woman or boy, either with a sufficient meal between the hours at which the factory ordinarily closes and the hour at which the extension is to commence, or with an allowance of not less than one shilling and sixpence, such allowance to be paid on the day on which such extension is to apply not later than the hour at which the factory ordinarily closes.

Amended by
No. 54 of
1937, s. 14.

38. 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 regard-
ing employ-
ment.

Formerly s.
41A as in-
serted in No.
44 of 1920
after s. 40 (s.
40 in 1928 re-
print) by No.
54 of 1937,
s. 15.

Holidays in factories.

What holidays to be allowed without deduction from wages.

Formerly s. 42 of No. 44 of 1920; as amended by No. 4 of 1922, s. 4 (s. 42 in 1928 reprint); amended by No. 54 of 1937, s. 16.

39. Except as hereinafter provided, the occupier of a factory shall allow to every person employed in the factory, the following holidays on full pay, that is to say:—a whole holiday on every Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Anzac Day, Labour Day, and birthday of the reigning Sovereign, provided that when Christmas Day, Boxing Day, New Year's Day, Anzac Day, or the birthday of the reigning Sovereign falls on a Sunday, then the whole holiday shall be allowed on the next ensuing Monday.

[*Proviso deleted by No. 54 of 1937, s. 16 (b)*]

Amended by No. 54 of 1937, s. 16 (c).

When owing to or as a result of the provisions of any industrial award or agreement it is impracticable for a person employed in a factory to work on any day, such person shall be deemed to be granted a holiday on full pay on that day, and shall be entitled to be paid in respect thereof accordingly.

Half holidays.

Formerly s. 43 of No. 44 of 1920 (s. 43 in 1928 reprint).

Amended by No. 54 of 1937, s. 17.

40. Every occupier of a factory shall allow to every person employed therein a half-holiday on every Saturday in every district in which shops (other than those specially exempted) are required to close at one o'clock on that day, and in other places on such day of the week as the occupier and his employees may from time to time agree upon, or in default of such agreement as the Chief Inspector may from time to time select, such half-holiday to commence from the hour of one of the clock in the afternoon.

Exceptions as to news-paper.

Formerly s. 44 of No. 44 of 1920 (s. 44 in 1928 reprint).

41. (1) Nothing in this Act shall be deemed to prevent—

(a) any person being employed in a printing office on the half-holiday for the purpose of printing or publishing an evening newspaper, or on one evening of the week for the purpose of printing or publishing a weekly or monthly newspaper; nor

(b) the substitution, with the approval of the Chief Inspector, of other working days as whole holidays in lieu of Christmas Day, Easter Monday, Eight Hours' Day, and the Sovereign's birthday in the case of persons employed in the printing and publishing of newspapers; nor

(c) any boy being employed on the half-holiday in the publishing or delivering of a newspaper.

(2) For the purposes of this section "newspaper" means a paper containing public news, printed and published in Western Australia periodically or in parts or numbers, at intervals not exceeding one month between one publication and the next.

[Section 45 of No. 44 of 1920 (s. 45 in 1928 reprint) transposed by s. 18 (2) of No. 54 of 1937 to Part XII.; now s. 138 in this reprint.]

[Section 46 of No. 44 of 1920 (s. 46 in 1928 reprint) transposed by s. 19 (2) of No. 54 of 1937 to Part XII.; now s. 139 in this reprint.]

[Section 47 of No. 44 of 1920 (s. 47 in 1928 reprint) transposed by s. 20 (2) of No. 54 of 1937 to Part XII.; now s. 140 in this reprint.]

[Section 48 of No. 44 of 1920 (s. 48 in 1928 reprint) transposed by s. 54 (2) of No. 54 of 1937 to Part XII.; now s. 136 in this reprint.]

42. (1) The provisions of this section are specially intended for the better suppression of what is commonly known as the "sweating evil," and shall be construed and applied accordingly.

"Sweating"
in factories.
Formerly s.
49 in No. 44
of 1920 (s.
49 in 1928
reprint).

(2) The occupier of a factory who lets or gives out work of any description in connection with textile or shoddy material to be done by any person elsewhere than in a factory shall keep or cause to be kept a record in the prescribed manner showing with substantial correctness—

- (i) the full name and address of such person, and the situation of the place where he does the work;
- (ii) the quantity and description of the work done by such person; and
- (iii) the nature and amount of the remuneration paid to him therefor.

(3) No person to whom the work is let or given out as aforesaid shall—

- (i) directly or indirectly sublet the work or any part thereof, whether by way of piecework or otherwise; or

- (ii) do 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.

Penalty: Ten pounds.

(4) If the occupier of the factory by whom the work is let or given out as aforesaid knowingly permits or suffers any offence under this section to be committed, he is liable to a fine not exceeding fifty pounds.

(5) In any proceedings under this section against the occupier of a factory, the knowledge of his servants shall be deemed to be his knowledge.

(6) For all the purposes of this section every merchant, wholesale dealer, shopkeeper, agent, or distributor, who lets or gives out textile or shoddy material to be made into garments or other articles for sale, shall be deemed to do so as the occupier of a factory, and the provisions, obligations, and penalties of subsection (2) hereof shall extend and apply to him accordingly.

Work when done by employees elsewhere than in factory.

Formerly s. 50 of No. 44 of 1920 (s. 50 in 1928 reprint).

43. Without in any way limiting the operations of the last preceding section, the following provisions shall apply in the case of every factory:—

- (a) If any person employed in a factory does any work for the factory elsewhere than in the factory, the occupier commits an offence, and is liable to a fine not exceeding ten pounds.
- (b) Any person who, being employed in the factory, does such work elsewhere than in a factory, commits an offence, and is liable to a fine not exceeding five pounds:

Provided that nothing in this section shall be deemed to apply to any work which cannot, by reason of its peculiar nature, be performed on the factory premises.

Outside workers to register names and addresses.

Formerly s. 51 of No. 44 of 1920 (s. 51 in 1928 reprint).

44. (1) Every person who, outside a factory, but for the occupier of a factory, shop, or warehouse, wholly or partly prepares or manufactures for trade or sale any clothing, wearing apparel, curtains, cushions, upholstery, or any other prescribed articles, shall make application for registration to the Chief Inspector in writing in the prescribed form, and shall specify—

- (a) the name in full of the applicant;

- (b) the situation of the premises or place where it is intended to prepare or manufacture such articles;
- (c) the number of persons to be employed in the preparation or manufacture of such articles.

Penalty: One pound.

(2) If in the opinion of the Minister any applicant for registration under this section could without undue inconvenience or hardship be employed in the factory, he may direct the Chief Inspector to refuse to register such person.

(3) The occupier of a factory who lets or gives out work of any description in connection with the articles of clothing or wearing apparel to be done elsewhere than in the factory, to any person not registered under this section, shall be guilty of an offence against this Act.

(4) Every person so registered may be required by any inspector to answer all questions put to him by such inspector as to the person for whom the articles are being prepared or manufactured and the price or rate to be paid to him therefor.

(5) Notwithstanding anything contained in this Act, no names or addresses registered pursuant to this section shall be published in any manner, or be open to the public, or be seen by any person other than the officers engaged in the administration of this Act, and the said officers shall maintain and aid in maintaining secrecy as to the names and addresses so registered, and shall not communicate any such name or address to any person whomsoever except for the purposes of enforcing the provisions of this Act.

Penalty: One hundred pounds.

(6) No fee shall be charged for any registration under this section.

45. When in accordance with, or as a result of, any award of the Court under the Industrial Arbitration Act, 1912-1935, or of any registered industrial agreement which has been made a common rule, the employees employed in the manufacture of articles in any factory or in the principal or one of the principal departments of any factory, are required to cease work on any day at any

Cessation of work under award of Arbitration Court or common rule.

Formerly s. 52 of No. 44 of 1920 (s. 52 in 1928 reprint).

hour, then the factory or such department of any factory shall cease working operations on that day not later than the hour fixed for the cessation of work under the said award or industrial agreement which has been made a common rule, and shall continue the cessation of work until the time fixed or determined by or under such award or agreement for the commencement of work by such employees.

PART V.—RESTRICTIONS RELATING TO PERSONS WHO ARE NOT OF FULL AGE.

No child to be employed.

Formerly s. 53 of No. 44 of 1920 as amended by No. 4 of 1922, s. 5 (s. 53 in 1928 reprint).

46. No occupier of a factory, shop or warehouse shall employ therein any child:

Provided that in case any child was at any time heretofore lawfully employed in a factory, shop or warehouse, and continued to be so employed at or immediately prior to the commencement of this Act or the coming into operation of this proviso, nothing in this section shall prevent the employment of such child in the same factory, shop or warehouse by the same employer.

Restriction of employment in mirror and white lead making.

Formerly s. 54 of No. 44 of 1920 (s. 54 in 1928 reprint).

47. No occupier of a factory shall employ a male under eighteen years of age or a woman in any part of such factory in which there is carried on—

- (a) the process of silvering of mirrors by the mercurial process; or
- (b) the process of making white lead.

Restriction of employment in glass-works.

Formerly s. 55 of No. 44 of 1920 (s. 55 in 1928 reprint).

48. No occupier of a factory shall employ a female under eighteen years of age in any part of such factory in which the process of melting or annealing glass is carried on.

Restriction of employment in brick and salt making.

Formerly s. 56 of No. 44 of 1920 (s. 56 in 1928 reprint).

49. No occupier of a factory shall employ therein a girl under sixteen years of age if there is carried on therein—

- (a) the making or finishing of bricks or tiles not being ornamental tiles; or
- (b) the making or finishing of salt.

Restriction of employment in lucifer match-dipping.

Formerly s. 57 of No. 44 of 1920 (s. 57 in 1928 reprint).

50. No occupier of a factory shall employ a person under sixteen years of age in any part of such factory in which the dipping of lucifer matches is carried on.

51. A girl under sixteen years of age shall not be employed as a type-setter in a printing office.

Girl under 16 not to be employed as typesetter. Formerly s. 58 of No. 44 of 1920 (s. 58 in 1928 reprint).

52. The occupier of a factory shall affix and keep affixed, in legible characters, in some conspicuous place therein, and so as to be easily read by the employees, a copy of such of the sections forty-six, forty-seven, forty-eight, forty-nine, fifty, and fifty-one as are applicable to such factory; such copies to be supplied by the Chief Inspector.

Notices to be posted in factory.

Formerly s. 59 of No. 44 of 1920 (s. 59 in 1928 reprint).

53. (1) Without limiting the foregoing restrictions as to the age of employment, the inspector may, if he is of opinion that any boy or girl under the age of sixteen years who is employed in any factory, shop, or warehouse, is physically unfit for such employment, by notice in writing require such boy or girl to produce, within the time stated in such notice, a certificate signed by a medical officer of health, certifying that he has examined such boy or girl, has satisfied himself as to his or her age, and that such boy or girl is physically fit to perform the duties upon which he or she is engaged.

Restrictions on employment of boys or girls under 16.

Formerly s. 60 of No. 44 of 1920 (s. 60 in 1928 reprint).

(2) It shall not be lawful for any occupier of a factory, shop, or warehouse to continue to employ any boy or girl who has been required to produce a certificate of fitness as aforesaid unless and until such certificate has been produced to the inspector.

(3) The inspector shall, upon serving the notice under subsection (1) of this section, at the same time notify the occupier in writing that he has required the said boy or girl to produce a certificate of fitness as aforesaid.

(4) For every certificate of fitness issued under this section the medical officer of health may charge a fee not exceeding five shillings, which shall, if the boy or girl has been in the employment of the occupier for a period exceeding one calendar month, be payable by the occupier, and if such boy or girl has been employed for less than one calendar month, such fee shall be payable by the boy or girl aforesaid.

Certificate of fitness as to such boys and girls.

Formerly s. 61 of No. 44 of 1920 (s. 61 in 1928 reprint).

54. With respect to every certificate of fitness, the following provisions shall apply:—

- (a) Evidence as to age may be given by production of a certificate of birth (which for the purposes of this section the Registrar of Births shall supply to the inspector without fee) or by statutory declaration by any person competent to depose to the fact.
- (b) Every statutory declaration under this section shall be exempt from stamp duty.
- (c) The certificate of fitness shall not operate to limit or remove any of the restrictions or conditions imposed by this Act in respect of the employment of any persons.
- (d) The Chief Inspector shall keep a register of all certificates of fitness issued by any medical officer of health under the provisions of section fifty-three.

Penalty on parent of child employed in breach of Act.

Formerly s. 62 of No. 44 of 1920 as amended by No. 4 of 1922, s. 6 (s. 62 in 1928 reprint).

55. In every case where a boy under the age of fourteen years or a girl under the age of fifteen years is employed in a factory, shop or warehouse in breach of this Act, then, irrespective of the penalty to which the occupier of the factory, shop or warehouse thereby exposes himself, the parent or guardian 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: Five pounds.

PART VI.—PROVISIONS RELATING TO HEALTH, SANITATION, AND SAFETY.

Special regulations concerning dangerous trades.

Formerly s. 62A of No. 44 of 1920, as inserted herein by No. 54 of 1937, s. 22.

56. (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 district 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.

57. (1) When so required by subsection (5) of section fifty-six 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.

Formerly s. 62B of No. 44 of 1920, as inserted therein by No. 54 of 1937, s. 22.

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

58. (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 dangerous, is used (whether existing at the time when the regulations are

Regulations may be of general or special application. Formerly s. 62C of No. 44 of 1920, as inserted therein by No. 54 of 1937, s. 22.

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.

Special provisions may be made in regard to certain matters.

Formerly s. 62D of No. 44 of 1920 as inserted therein by No. 54 of 1987, s. 22.

59. 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.

Penalty for non-observance.

Formerly s. 62E of No. 44 of 1920 as inserted therein by No. 54 of 1937, s. 22.

60. (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.

Overcrowding.

Formerly s. 63 of No. 44 of 1920 (s. 63 in 1928 reprint).

61. (1) A factory or any portion thereof—

- (a) shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein;

(b) shall contain such amount of cubical space for each person employed as an inspector shall in each case determine: Provided, however, that such reserved space shall not be less than three hundred and fifty cubic feet for each person working therein; Space.

(c) shall be ventilated so as to render harmless, as far as practicable, all the gases, vapours, dust, and impurities generated therein, and in the opinion of the Chief Inspector, injurious to health; Ventilation.

(d) shall contain such amount of window or light area for each workroom as an inspector shall in each case determine: Provided that such window or light area shall not be less in proportion than one-tenth of the floor area. Light.

(2) Every heating appliance in any factory, whether used for warming persons therein engaged, or for the manufacturing process, shall be provided with a flue of such size and construction as may be approved by the Chief Inspector, unless the factory is of such open construction as to render such flue unnecessary. Heating appliances.

(3) A factory, in respect whereof there is a contravention of this section, shall be deemed to be not kept in conformity with this Act.

(4) The occupier of the factory shall be deemed to be responsible for any such contravention and, subject to section one hundred and forty-seven, may be proceeded against accordingly.

62. The following provisions shall apply to all factories— Rules to be observed in factories.

(a) An inspector may by requisition to the occupier of a factory require the occupier to supply fans or other efficient appliances to carry off and render harmless all the gases, vapours, dust, and impurities generated therein and deemed by the inspector to be injurious to health. Formerly s. 64 of No. 44 of 1920 (s. 64 in 1928 reprint).

(b) No space in a factory or any part thereof shall be deemed duly reserved for any person employed therein unless such space is kept properly lighted and ventilated, and clear from all mate-

rials, goods, or tools other than those actually used or required by the person for whom the space is to be reserved.

- (c) A sufficient supply of fresh drinking-water shall be provided for the free use of the persons employed in the factory.

[Section 65 of No. 44 of 1920 (s. 65 in 1928 reprint), transposed by s. 23 (2) of No. 54 of 1937 to Part XII.; now s. 141 in this reprint.]

Meals and meal times of employees.

Formerly s. 66 of No. 44 of 1920 (s. 66 in 1928 reprint).

Amended by No. 54 of 1937, s. 24.

63. With regard to the meals and meal times of employees, the following rules shall be observed in every factory:—

- (a) No person shall be permitted to take any meal in any room in which any handicraft or manufacturing process is being or within the previous two hours has been carried on, or in which any person is or during the previous two hours has been engaged in work.
- (b) No employee who is entitled under this Act to an interval for meals shall be permitted to do any work or to remain in any workroom during such interval.
- (c) Notwithstanding anything contained in this section, where the number of employees employed in a factory does not exceed six, an inspector may permit such employees to take their meals in the workroom and to remain therein.
- (d) When the number of employees employed in a factory exceeds six, the occupier shall provide a fit and proper room in which they may take their meals: Provided that an inspector may authorise a place of shelter within the factory to be used for this purpose if he is satisfied that it is reasonably sufficient for this purpose, and is sufficiently secure from the weather and from public view.
- (e) The room or shelter referred to in the preceding paragraph shall be furnished by the occupier of the factory to an inspector's satisfaction with seats and tables, so as to permit of meals being

taken with reasonable comfort and security, and shall not be used for the storage of materials or goods.

64. Where, in the opinion of the Chief Inspector, a change of dress on the part of any person employed in a factory is necessitated by the work or is desirable for the comfort of such person, the occupier of such factory shall, at the request in writing of the Chief Inspector, and within the time limited in such request, provide a suitable, furnished dressing-room for such person to the satisfaction of the Chief Inspector.

Dressing rooms.
Formerly s. 67 of No. 44 of 1920 (s. 67 in 1928 reprint).
Amended by No. 54 of 1937, s. 25.

Daily penalty: One pound.

65. No woman shall knowingly work and no occupier of a factory shall knowingly require or permit any woman to work in any factory during the six weeks immediately prior to or after her confinement.

Women not to be employed within six weeks before of after confinement.
Formerly s. 68 of No. 44 of 1920 (s. 68 in 1928 reprint).

66. No male under eighteen years of age, and no female, shall be allowed 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.

Restriction on employment under certain age.
Formerly s. 69 of No. 44 of 1920 (s. 69 in 1928 reprint).

Penalty: Twenty pounds.

67. Every woman who works in a factory at or about any machine driven wholly or partly by mechanical power shall, whilst so working, if required by an inspector, be dressed as prescribed, and have her hair securely fastened on the top or at the back of her head and protected by a net or cap of a kind approved by the Chief Inspector, and the occupier of the factory shall constantly keep a sufficiency of such nets or caps in the factory, and shall supply them, as required to the employees.

Women employed at machinery to have hair securely fastened and protected.
Formerly s. 70 of No. 44 of 1920 (s. 70 in 1928 reprint).

Penalty: Ten pounds.

68. Every person working in a factory at or adjacent to any bottling machine where the material bottled is aerated shall have his face and head effectually protected by a wire mask, and shall have his hands and arms up to the elbows effectually protected by gloves. Such masks and gloves shall be of a kind approved by the

Persons employed about aerated water bottling machines to have faces and heads suitably protected.
Formerly s. 71 of No. 44 of 1920 (s. 71 in 1928 reprint).

Chief Inspector, and the occupier of the factory shall constantly keep a sufficiency of such masks and gloves in the factory, and shall supply them as required to the employees free of cost:

Provided that no employee shall be required to use a mask which has been previously used by another employee unless and until such mask has been properly sterilised.

Hoists and lifts to be protected.

Formerly s. 72 of No. 44 of 1920 (s. 72 in 1928 reprint).

69. 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.

Unsafe or dangerous elevator or lift.

Formerly s. 73 of No. 44 of 1920 (s. 73 in 1928 reprint).

70. 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. Whilst such prohibition is in force the occupier shall not use or permit the use of such elevator or lift.

Inspection of Machinery Act not affected.

Formerly s. 74 of No. 44 of 1924 (s. 74 in 1928 reprint).

71. Nothing in section sixty-nine or seventy shall limit or affect the provisions of the Inspection of Machinery Act, 1921.

Management of elevators.

Formerly s. 75 of No. 44 of 1920 (s. 75 in 1928 reprint).

72. No person under the age of eighteen shall be allowed to have the care, custody, management, or working of any elevator or lift in any factory or shop, unless such elevator or lift has been specially exempted from the operation of this section by the Chief Inspector.

Sitting accommodation to be provided.

Formerly s. 76 of No. 44 of 1920 (s. 76 in 1928 reprint).

73. (1) Every occupier of a factory shall cause to be provided suitable sitting accommodation for all females employed therein in the proportion of one seat for every three females employed, and such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided.

(2) The occupier of any factory shall allow every female employed therein to make use of such sitting accommodation at all reasonable times during the day, when such use would not necessarily interfere with the proper discharge by such female of her duties.

74. (1) The Chief Inspector may require any such 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.

Formerly s. 77 of No. 44 of 1920 (s. 77 in 1928 reprint).

(2) The Chief Inspector may require any such building roofed with iron, zinc, or tin to be coated with white paint or whitewash or other cooling substance: Provided, however, that the Chief Inspector shall not make any such requisition unless he shall have given the occupier reasonable opportunity to be heard in opposition.

75. In every factory there shall be constructed, to the satisfaction of an inspector, a sufficient number of water-closets or earth closets and lavatories for the separate use of each sex, so situated as to secure reasonable privacy, and screened from the public view to the satisfaction of the inspector.

Lavatories to be separate.

Formerly s. 78 of No. 44 of 1920 (s. 78 in 1928 reprint).

76. (1) In every factory where white lead, red lead, litharge, or other compounds of lead, mercurial, or arsenical preparations are manufactured or produced—

Provisions applicable to factories where lead, arsenic, etc., are used.

(a) suitable washing and bathing conveniences shall be provided by the occupier for the use of the employees;

Formerly s. 78A of No. 44 of 1920 as inserted therein by No. 41 of 1923, s. 2 (s. 78A in 1928 reprint).

(b) the occupier shall not allow any employee to take a meal in any room in which such substance is used, and suitable provision shall be made by the occupier for enabling the employees to take their meals elsewhere than in the factory;

(c) and if the roasting, conversion, manufacture, production, or treatment of lead or arsenical ore by any process is carried on, masks and rubber gloves shall be provided by the occupier for use by the employees, and shall be kept efficient.

(2) The occupier of any factory shall forthwith send written notice to the nearest inspector whenever it comes to his knowledge that any employee is suffering from lead or arsenical poisoning, and such notice shall state the name and address of the employee.

(3) The Governor may, by regulations—

(a) require employees in a factory where lead, arsenic, or other poisonous substance is used,

to be examined at such intervals as may be prescribed by the Commissioner of Public Health or some duly qualified medical practitioner appointed by him, who shall have power to order suspension from such employment: Provided that such examination shall be without charge to the occupier or employee;

- (b) prohibit the employment of any person in such factory after suspension without the sanction of a medical practitioner;
- (c) require every employee to forthwith notify the occupier as to any symptoms which lead such employee to believe that he has contracted poisoning of any kind, and require the occupier to record such notification in a health register to be kept at the factory for that purpose;
- (d) require the occupier of the factory to provide and maintain sufficient and suitable overalls and head-coverings, and clean respirators, and to cause them to be worn; and at the end of every day's work to be collected and kept in a suitable place set apart for the purpose, and to be thoroughly washed every week, and those which have been used in the stoves to be washed daily;
- (e) require the occupier to provide and maintain, for the use of employees, suitable accommodation for clothing put off during working hours, with adequate arrangements for drying the clothing if wet; the cloak-room to be separate from the meal-room;
- (f) require the occupier to allow to each worker at least ten minutes, in addition to the regular meal time, for washing before each meal, and before the end of the day's work;
- (g) require the meal-room, cloak-room, baths, and sanitary conveniences to be placed under the charge of a responsible person, and to be kept clean;
- (h) require the floors of the factory to be cleaned daily, after being thoroughly damped;

- (i) require that no occupier shall permit an employee to partake of a meal in and upon the factory;
- (j) require the occupier to provide for the employees such suitable drink as may be prescribed as an antidote to poisons inhaled or ingested; and
- (k) provide generally for any matters necessary to give effect to this section.

77. 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 Commissioner of Public Health.

Assistant's health likely to contaminate articles of food.
Formerly s. 79 of No. 44 of 1920 (s. 79 in 1928 reprint).

- (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 until he has produced to the inspector a certificate from a registered medical practitioner that his state of health is not likely to convey germs of disease or other contamination to any articles of food.
- (4) If the person so employed does any work in or about such factory after service of the said notice upon him without first obtaining the said certificate, he commits a breach of this Act.
- (5) If the occupier of the factory, after service upon him of the said notice, employs such person before such person has obtained the said certificate, he commits a breach of this Act.
- (6) The cost of any certificate from a medical practitioner under this section shall, if the person em-

ployed has been in the employment of the occupier for a period longer than one month, be borne by the occupier.

Nuisance adjoining factory to be removed.

Formerly s. 80 of No. 44 of 1920 (s. 80 in 1928 reprint).

78. (1) If in any building, yard, or place adjoining a factory there exists any nuisance or other sanitary defect which, in the opinion of the inspector, is likely to injuriously affect the proper sanitation of the factory or the health of the persons employed therein, he may, by requisition to the owner or the occupier of such building, yard, or place, require him to effectually abate such nuisance or amend such defect within such reasonable time as may be named in the requisition.

(2) The liability of such owner or occupier for any breach of this section shall be irrespective of his liability under any other Act, so that he is not prosecuted twice for the same offence.

Provisions to check spread of disease by infection or contagion.

Formerly s. 81 of No. 44 of 1920 (s. 81 in 1928 reprint).

79. In order to check the risk of disease being spread by infection or contagion, the following provisions shall apply:—

(1) It shall not be lawful to manufacture or work up goods or materials, or to receive them for any such purpose in any factory—

(a) wherein, to the knowledge of the occupier of such factory, there resides any person suffering from any infectious or contagious disease; or

(b) wherein any such person has so resided at any time during the previous fourteen days, unless and until such portion of the factory and such goods and materials therein as the inspector may deem necessary, have been disinfected to the satisfaction of the inspector.

(2) If any such goods or materials are found to be or to have been in any factory in breach of this section the inspector may cause them to be seized, removed, and disinfected at the expense in all things of the owner; and, on the summary application of the inspector, any two justices of the peace may order them to be destroyed by the inspector at the expense in all things of the owner.

- (3) All expenses for which the owner is liable under this section shall be recoverable in a summary way, in like manner as in the case of a penalty.

80. 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 fifteen persons are employed:—

Rules to prevent accidents from fire.

Formerly s. 82 of No. 44 of 1920 (s. 82 in 1928 reprint).

Amended by No. 54 of 1937, s. 26.

- (1) Efficient fire-escapes shall be provided for every workroom on 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 to or exit from the room, shall be kept clear and unfastened, so as to admit of quick and easy egress.
- (5) The provisions of the last two 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 door 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.

Inserted by
No. 54 of
1937, s. 26.

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.

Alteration of
buildings.

Formerly s.
83 of No. 44
of 1920 (s.
83 in 1928
reprint);
amended by
No. 54 of
1937, s. 27.

81. The occupier of a factory who intends to alter or extend any building used for the purpose of a factory shall at least seven days prior to the commencement of such alterations send to the Chief Inspector a notice in writing of his intention to alter or extend such building. He shall also at the same time deliver to the Chief Inspector a plan and specification showing in detail the nature and extent of the proposed alterations and extensions.

Occupier may
be required
to cease to
employ per-
sons in
factory pend-
ing structural
alterations.

Formerly s.
84 of No. 44
of 1920 (s.
84 in 1928
reprint).

82. If, in the opinion of the Chief Inspector, it would be dangerous to permit the employment of any persons in any factory premises or part thereof, during the progress of any structural alterations or additions thereto, he may, by notice in the prescribed form, served on the occupier, require such occupier to cease to employ any persons in the said factory or part thereof, during the progress of such alterations or additions, or for such a period as may be specified in the notice.

Any occupier who fails to immediately comply with the requirements of a notice served as aforesaid, shall be liable on conviction to a penalty not exceeding fifty pounds.

Notice of
accidents in
factories.
Formerly s.
85 of No. 44
of 1920 (s.
85 in 1928
reprint).

83. (1) The occupier of a factory shall send written notice to the nearest inspector when an accident occurs therein which is caused otherwise than by a boiler or

machinery subject to the Inspection of Machinery Act, 1921, and which—

- (a) causes loss of life to an employee; or
 - (b) incapacitates an employee for work for more than twenty-four hours.
- (2) Such notice shall—
- (a) in case of death be sent forthwith thereafter; and
 - (b) in case of such incapacity be sent immediately after the expiration of such twenty-four hours;
 - (c) state the nature and extent of the injury, as the case may be, and the residence of the person killed or injured, or the place to which he has been removed.

Penalty: Five pounds.

84. The inspector—

- (a) shall immediately on receiving notice, proceed to the factory and inquire into the cause of such accident;
- (b) may question the occupier and all persons employed in such factory, and shall immediately thereafter report to the Chief Inspector.

Inspector to inquire and report.
Formerly s. 86 of No. 44 of 1920 (s. 86 in 1928 reprint).

85. (1) When any such accident as aforesaid has happened in a factory, the Minister may direct an inquiry to be held before a police or resident magistrate and some other person appointed by the Minister.

Minister may direct inquiry before magistrate.
Formerly s. 87 of No. 44 of 1920 (s. 87 in 1928 reprint).

(2) The magistrate and such person shall have power to hold such inquiry at such times and places as the magistrate appoints, and shall report on the cause of such accident to the Minister.

(3) With respect to the summoning and attendance of witnesses at or upon such inquiry, and the examination of such witnesses upon oath, every such magistrate shall have all the powers which he would have or might exercise in any case within his ordinary jurisdiction under the Justices Act, 1902-1936.

Fencing of dangerous receptacles on requisition of inspector.

Formerly s. 88 of No. 44 of 1920 (s. 88 in 1928 reprint).

86. When an inspector considers that in a factory a vat, pan, or other receptacle which is used in the process or handicraft carried on in such factory is so dangerous by reason of its being filled with hot liquid or molten metal or otherwise as to be likely to be a cause of bodily injury to any person employed in the factory, he shall serve on the occupier of the factory a notice requiring him to fence and keep fenced such vat, pan, or other receptacle securely and to the satisfaction of an inspector.

Receptacles for heated liquid.

Formerly s. 89 of No. 44 of 1920 (s. 89 in 1928 reprint).

87. If in any factory or shop any person is required to move any heated liquid from one place to another, the occupier or shopkeeper shall provide sufficient suitable receptacles for the purpose to the satisfaction of the inspector.

Bandages, etc., for use in case of accident to be kept on requisition of inspector.

Formerly s. 90 of No. 44 of 1920 (s. 90 in 1928 reprint).

88. In every factory where power driven machinery is used in any process whatsoever, and in every factory where ten or more persons are employed, the occupier shall, if required by an inspector, provide and keep, in a suitable case or locker placed in a position approved by the inspector, such supply of lint, bandages, and anti-septic dressing for use in cases of accident as the inspector may deem necessary.

Clear space to be kept near engine, etc.

Formerly s. 91 of No. 44 of 1920 (s. 91 in 1928 reprint).

89. In every factory where power driven machinery is used the occupier shall cause to be kept clear such space in the vicinity of an engine, machine, or machinery therein, as, in the opinion of the inspector, is necessary to enable any person to work at, attend to, or clean the same without risk or injury to himself or any other person.

Inspector may attend inquests and inquiries.

Formerly s. 92 of No. 44 of 1920 (s. 92 in 1928 reprint).

90. At every inquest or inquiry held in connection with any fatal or other accident which has occurred in any factory (other than an accident caused by a boiler or machinery to which the Inspection of Machinery Act, 1921, applies), any inspector appointed under this Act may attend and examine witnesses.

Magistrate may direct measures to be taken to secure compliance with Act.

Formerly s. 93 of No. 44 of 1920 (s. 93 in 1928 reprint).

PART VII.—SPECIAL PROVISIONS FOR CERTAIN TRADES.

91. When, by reason of any offence against this Act, a factory is not kept in accordance with this Act, the police or resident magistrate, 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, the occupier shall be liable to a daily penalty not exceeding five pounds.

Amended by No. 54 of 1937, s. 28.

92. 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.

The furniture trade.

Stamping furniture.

Formerly s. 94 of No. 44 of 1920 (s. 94 in 1928 reprint).

Amended (repeal and new section) by No. 54 of 1937, s. 29.

93. (1) Such stamp shall set forth legibly or clearly the manufacturer's true name, or registered trade mark, and the address of the place in which such furniture was manufactured or prepared. If such furniture was only partly manufactured or prepared by such manufacturer the words "partly prepared by" shall be stamped above such manufacturer's name and address or trade mark.

Manner of stamping furniture.

Formerly s. 95 of No. 44 of 1920 (s. 95 in 1928 reprint).

(2) Such stamp shall be placed on some part of such furniture and on each moveable part thereof where it can be clearly and easily seen and read upon examining such furniture.

(3) Where the manufacture or preparation has been effected solely by European labour such stamp shall also set forth in legible type the words "European labour only."

(4) Where the manufacture or preparation has been effected solely or partly by the labour of any Asiatic employee such stamp shall also set forth in legible type the words "Asiatic labour."

(5) "European labour" means the labour of persons who are entirely of European race or descent.

(6) In the case of imported furniture the stamp shall also set forth in legible type the words "imported furniture."

(7) Any person who, for the purpose of contravening or evading any provision of this part of this Act removes, defaces, or otherwise seeks to obliterate or obscure any stamp which has been placed on any furniture pursuant to this section commits an offence.

Penalty: Twenty pounds.

Stamps to be pointed out to inspectors.

Formerly s. 96 of No. 44 of 1920 (s. 96 in 1928 reprint).

94. Every occupier of a factory or shop and the agents or servants of such occupiers shall, whenever so required by an inspector, point out to such inspector where any article of furniture in such factory or shop is stamped in accordance with the provisions of this Act.

Selling or offering for sale unstamped furniture prohibited.

Formerly s. 97 of No. 44 of 1920 (s. 97 in 1928 reprint).

Amended by No. 54 of 1937, s. 30.

95. Every person who sells or offers or exposes or has in his possession for sale, or agrees to sell, or delivers after sale, or lets on hire any furniture which is required by this Act to be stamped, and is not duly stamped in accordance with this Act, commits an offence against this Act.

Certain laundries partly excluded from operation of Act.

Formerly s. 98 of No. 44 of 1920 (s. 98 in 1928 reprint).

96. (1) No laundry, in which the only persons employed are—

(a) inmates of any reformatory or industrial school, or of any other institution for the time being subject to inspection under any Act other than this Act; or

(b) inmates of an institution conducted in good faith for religious or charitable purposes,

shall be deemed to be a factory within the meaning of this Act.

(2) Notwithstanding anything contained in this section the provisions of sections twenty-eight and twenty-nine (excepting paragraphs (c) and (d)), thirty-three, thirty-four, and sixty-five of this Act, and subsection (1) of section thirty-three (except that part of subsection (1) which relates to the payment of persons for extended hours of employment), shall apply to every reformatory, industrial school, and institution conducted for religious or charitable purposes, and every inspector may enter any such institution at all reasonable hours for the purpose of seeing that the provisions of such sections are complied with.

97. This Act shall extend as well to factories carried on or conducted by the Government of this State or by any local authority as to factories otherwise carried on or conducted.

Act extends to factories conducted by Government or local authority.

Formerly s. 99 of No. 44 of 1920 (s. 99 in 1928 reprint).

PART VIII.—THE CLOSING OF SHOPS.

98. The repeal by this Act of the Early Closing Act, 1902, shall not affect any proclamation, order by the Governor, choice lawfully made by any shopkeeper, or resolution duly carried and published in the *Gazette*, relating to the days on which the closing time, as prescribed, shall have effect; but every such proclamation, order, choice, and resolution shall continue in operation in those portions of the State that were districts under the repealed Act as if made and carried under the provisions of this Part of this Act.

Saving of existing proclamations, etc.

Formerly s. 100 of No. 44 of 1920 (s. 100 in 1928 reprint).

99. (1) The Governor may by proclamation constitute any defined portion of the State a shop district for the purposes of this Act, and specify the boundaries of such district, and may in like manner (subject as hereinafter provided) abolish any district, and may assign a name to, or change the name of, any district.

Shop districts.

Formerly s. 101 of No. 44 of 1920 as amended by No. 4 of 1922, s. 7 (s. 101 in 1928 reprint).

(2) The Metropolitan Shop District, consisting of the following electoral provinces, namely, the Metropolitan Province, the Metropolitan-Suburban Province, and the West Province, and the shop district which comprises the Kalgoorlie, Boulder, Brown Hill-Ivanhoe, and Hannans electoral districts, shall be deemed to have been established by proclamation under this Act, but the Governor shall have no power to abolish such districts.

(3) If any district is abolished by proclamation, the abolition shall not of itself abrogate any choice or proclamation or resolution of electors theretofore made, issued, or carried under any of the succeeding provisions of this Act and in force at the time of the abolition, and no proclamation constituting or abolishing any district shall of itself render any area subject to any choice or proclamation or resolution of electors made, issued, or carried under any of the said provisions.

Closing times.

Formerly s.
102 of No. 44
of 1920 as
amended by
No. 4 of 1922,
s. 8 (s. 102
in 1928
reprint).

***100.** (1) Subject as hereinafter provided, the closing time for all shops (except those mentioned in the Fourth Schedule and except registered small shops) shall be in every week—

On one week day, one o'clock;

On the five other week days, six o'clock;

and all shops (except as aforesaid) shall be closed on those days not later than the hours mentioned above, which shall be the hours after noon in each day, and shall continue closed until eight o'clock, or such earlier hour as may from time to time be fixed by proclamation (in respect either of all shops affected or of any class or classes of such shops) in the morning of the week day next following.

Days on
which shops
to close at
one.

(2) Subject to this Act the day on which all shops affected by this section shall close at one o'clock shall be Saturday:

Provided that the Governor may, by proclamation, at any time and from time to time, on the petition (according to the form in the Sixth Schedule) of the majority of the keepers of such shops in any district, or specified locality not within a district, substitute in that district or locality for Saturday any other week day, and may at any time on the like petition revoke any such substitution:

Provided further, that in any specified district or locality in respect of which any day other than Saturday has been fixed by proclamation as the day on which the closing time for shops generally shall be one o'clock after noon, any shopkeeper may by choice made as hereinafter set out decide to close any such shop kept by him at one o'clock after noon on Saturday, and he shall be entitled to keep such shop open until six o'clock on the day so fixed by proclamation for closing at one o'clock, and shall be bound to close such shop at one o'clock on Saturday.

Choice of
shopkeeper.

(3) The choice of the shopkeeper shall be made by sending to the Chief Inspector a notice in the form of the Fifth Schedule.

* The amendments made in this section by the Act, No. 4 of 1922, have effect, by virtue of section 12 thereof, as from the commencement of the principal Act.

(4) When a shopkeeper has made any such choice in respect of any shop, he shall not (unless a proclamation affecting the shop has been subsequently issued hereunder) make another choice in respect of such shop until after the expiration of three calendar months from the day when the former choice was made.

Change of
choice.

(5) Notwithstanding any of the preceding provisions of this section, or section one hundred and five, it shall be lawful for shops to which this section applies, excepting those in the Metropolitan Shop District, and the shop district which comprises the Kalgoorlie, Boulder, Brown Hill-Ivanhoe, and Hannans electoral districts, to remain open until nine o'clock on one evening in the week, subject to the following provisions, that is to say:—

Amended by
No. 4 of
1922, s. 8.

(a) The Governor may from time to time by proclamation, issued on the petition of a majority of the shopkeepers affected, determine the day on which such shops shall so remain open in each week for any district or specified locality not within a district; but in the absence of such determination the day shall be Friday:

Provided that no shop which is required to close at one o'clock in the afternoon of any particular day shall be opened or kept open after that hour on that day by virtue of anything in this subsection, and that whilst any affirmative resolution under section one hundred and five is in force in any district the day (if any) on which shops may be kept open till nine o'clock in the evening in that district under this subsection shall be Saturday, and that whilst any negative resolution under that section is in force in the district such day shall not be Saturday.

(b) Subject as hereinafter provided, the Minister may at any time, and shall whenever he has received a petition for a poll hereunder signed by one-tenth of the electors, order a poll of electors to be taken in any district on the question—

“Do you vote that there shall be a late shopping night in this district?”

and the voting papers at such poll place shall be in the prescribed form.

- (c) No such poll shall be taken in any district within two years of the time when a previous poll hereunder was taken therein, and every resolution of the electors on the submission of such question hereunder shall remain in force for at least two years and until a contrary resolution is carried.
- (d) Whilst any negative resolution on such questions is in force in any district, the permission to remain open till nine o'clock hereinbefore granted shall be deemed to be suspended therein.
- (e) Subject to this subsection, the provisions of section one hundred and five of this Act shall, so far as applicable, apply, *mutatis mutandis*, to and in respect of polls and resolutions hereunder.

Sale of petrol and motor accessories.

Formerly s. 102A of No. 44 of 1920 as inserted therein by No. 4 of 1922, s. 18 (s. 102A in 1928 reprint).

101. Notwithstanding any of the provisions of this Act it shall be lawful for a shopkeeper or his assistant or representative at any time to sell petrol, benzine, or other motor spirit, or any part or accessory of a mechanically propelled vehicle to travellers for the purpose of enabling them to continue any journey which they could not otherwise continue.

Closing time for small shops.

Formerly s. 103 of No. 44 of 1920 as amended by No. 4 of 1922, s. 9 (s. 103 in 1928 reprint).

Amended by No. 54 of 1937, s. 31.

102. (1) The closing time for small shops (not being shops mentioned in the Fourth Schedule) shall be, in every week—

On one week day, one o'clock;

On the other five week days, eight o'clock;

and all such shops shall close on those days not later than the hours above mentioned, which shall be the hours after the hour of noon in each day, and shall continue closed until seven o'clock in the morning of the week day next following:

Amended by No. 4 of 1922, s. 9.

Provided that 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 five of section one hundred, it shall be lawful for registered small shops to remain open till that hour on that evening.

Amended (repeal and new ss.) by No. 54 of 1937, s. 31.

(2) Where, as the result of a resolution carried at a poll of electors under the provisions of section one hundred and five of this Act, a week day other than Satur-

day 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.

(3) When any such shop is or is to be closed during the whole of any week day set apart in any week as a bank holiday or public holiday, such shop may be kept open until eight o'clock in the evening of the day of such week on which the closing time is one o'clock; and where such holiday as aforesaid is Christmas Day, such shop may also be kept open until ten o'clock in the evening of the week day next preceding.

(4) "Small shops" are those which are annually registered as such in accordance with the regulations, and wherein only one assistant (whether paid or unpaid) is engaged or employed, and the shopkeeper whereof and the assistant (if any) are registered.

Definition of "small shops."

103. (1) The registration of a shop as a small shop, and of the keeper thereof, and of any assistant therein, may be allowed in cases where the shopkeeper is a widow, or an old or physically disabled person, or in cases of great hardship, or if the shopkeeper is at the commencement of this Act registered as the keeper of a small shop, and shall be at the absolute discretion of the Chief Inspector.

Registration of small shops.
Formerly s. 104 of No. 44 of 1920, as amended by No. 4 of 1922, s. 10 (s 104 in 1928 reprint).
Amended by No. 54 of 1937, s. 32.

(2) No person shall be registered or employed as an assistant in a small shop unless such person is the husband, wife, child, stepchild, grandchild, brother, sister, nephew, niece, grandparent, or parent of the shopkeeper and is not employed in any other shop or in any factory.

(3) No person of Asiatic, African or Polynesian race shall be registered as the keeper of, or an assistant in, a small shop:

Provided that this subsection shall not apply to persons of the Jewish race.

(4) In relation to small shops, the term shopkeeper shall not include the manager of a shop.

Penalty.

Formerly s. 105 of No. 44 of 1920 (s. 105 in 1928 reprint).

104. Every shopkeeper of a small shop who is assisted by or employs an unregistered assistant commits a breach of this Act, and, on a second conviction for such or any other offence against this Act, his registration may be cancelled.

Poll of electors for alteration of half-holiday.

Formerly s. 106 of No. 44 of 1920 as amended by No. 4 of 1922, s. 11 (s. 106 in 1928 reprint).

Amended by No. 54 of 1937 s. 33.

Qualification of electors.

***105.** (1) In any district the Minister may order a poll of electors to be taken as hereinafter provided, and shall order such poll on receiving a petition in writing signed by not less than one-tenth in number of the duly registered electors who are entitled to vote at an election of a member of the Legislative Assembly in such district.

(2) The electors qualified to vote shall be those persons who are resident in the district, and are at the issue of the writ for the taking of the poll duly registered electors who would be entitled to vote at an election of a member of the Legislative Assembly, and each such elector shall have one vote.

(3) At every poll a resolution shall be submitted 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.

(4) If in any district the question is answered in the affirmative by a majority of the electors voting on the question, the resolution shall be deemed to be carried, and after the publication of the result in the *Gazette*, and (notwithstanding anything contained in subsections (1), (2), (3) or (4), but subject to subsection (5) of section one hundred) until the question is again submitted and answered in the negative the closing time for all shops (except those mentioned in the Fourth Schedule and except registered small shops) throughout the district shall be one o'clock after noon on that day in every week which has been determined by the voting at the said poll, and six o'clock after noon on all other week days, and all such shops shall close on those days not later than the hours

Resolution. Seventh Schedule.

Amended (repeal and new s.s.) by No. 54 of 1937, s. 33 (a).

Effect of affirmative answer.

Amended by No. 4 of 1922, s. 11.

Amended by No. 54 of 1937, s. 33 (b).

* The amendments made in subsections (4) and (6) of this section by the Act, No. 4 of 1922, have effect, by virtue of section 12 thereof, as from the commencement of the principal Act.

above mentioned, and shall continue closed until eight o'clock or such earlier hour as may from time to time be fixed by proclamation (in respect either of all shops affected or of any class or classes of such shops) in the morning of the week day next following.

(5) In any district in which such resolution has been carried and is in force, the day on which registered small shops shall close at one o'clock shall be that day in every week so determined by such resolution.

Effect on small shops.
Amended by No. 54 of 1937, s. 33 (c).

(6) If the question is answered in the negative by a majority of the electors voting on the question, the resolution shall be rejected and a negative resolution shall be deemed to be carried with the effect that after the publication of the result in the *Gazette* and (notwithstanding anything contained in subsections (1), (2), (3), or (4), but subject to subsection (5), of section one hundred) until the question is again submitted and answered in the affirmative the closing time for all shops (except those mentioned in the Fourth Schedule and except registered small shops) throughout the district shall be one o'clock after noon 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 and six o'clock after noon on all other week days, and all such shops shall close on those days not later than the hours above mentioned, and shall continue closed until eight o'clock or such earlier hour as may from time to time be fixed by proclamation (in respect of all shops affected or of any class or classes of such shops) in the morning of the week day next following, and the day on which registered small shops in the district shall close at one o'clock in the afternoon shall be 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.

Effect of negative answer.
Amended: repeal and new ss. by No. 4 of 1922, s. 11.
Amended by No. 54 of 1937, s. 33 (d) and (e).

(7) The result of every poll shall be notified in the *Gazette*, and such notification shall be conclusive evidence of the result and of the regularity of all antecedent proceedings and of due compliance with all necessary conditions.

Result of poll to be gazetted.

(8) The Governor may at any time and from time to time, subject as herein provided, by notice in the *Gazette*, appoint the date for the taking of a poll hereunder.

Governor to fix date.

Intervals between polls.

(9) No poll shall be taken in and for any district within two years of the taking of a previous poll therein and therefor, nor shall any place or area be affected by any poll taken within two years of the previous poll affecting such place or area.

Returning officer to be appointed and writ issued.

Amended by No. 4 of 1922, s. 11.

(10) At least fourteen days before the day fixed for the taking of a poll the Governor shall appoint a returning officer, and such deputy returning officers as may be necessary, and shall, by his warrant, direct the Clerk of the Writs to issue a writ to the returning officer for the taking of the poll, and the writ shall be issued accordingly, and an abstract thereof shall be forthwith published in a newspaper circulating in the district, and such poll shall be taken as hereinafter provided, and the result shall be certified by the returning officer to the Minister.

Provisions as to taking poll.

Amended: repeal and new ss. by No. 4 of 1922, s. 11.

(11) The method of taking and conducting the poll and the manner of voting thereat shall be, so far as practicable, in accordance with the provisions of the Electoral Act, 1907-1921, which Act (including the penal provisions) shall, *mutatis mutandis*, apply in respect thereof accordingly; but no elector shall be permitted to vote at any polling place outside the electoral district for which he is enrolled, and in applying such provisions references to the "Minister" shall be taken to mean the Minister administering this Act, and voting papers shall be marked as prescribed thereon.

Regulations.

(12) The Governor may make any regulations which may appear to him to be necessary for carrying out the provisions of this section.

Chemists' and druggists' shops.

Formerly s. 107 of No. 44 of 1920 (s. 107 in 1928 reprint).

106. (1) The provisions of sections one hundred and one hundred and five shall apply to chemists' and druggists' shops, subject to the following provisions:—

(a) On any day when other shops subject to those sections are required to close not later than six o'clock after noon, chemists' and druggists' shops shall close at six o'clock after noon.

(b) On Sundays and public holidays chemists' and druggists' shops may open at half-past six o'clock after noon and remain open till eight o'clock after noon.

(c) On any day on which a chemists' or druggists' shop is required to close at one o'clock after noon, it may be re-opened at half-past six o'clock, but shall be closed again at eight o'clock after noon:

Provided that the prescriptions of duly qualified medical practitioners may be dispensed, and medicines and surgical appliances required in case of necessity may be supplied in a chemist's or druggist's shop after the hours of closing applicable to such shop.

(2) If in any prosecution against a keeper of a chemist's or druggist's shop for a breach of this Act, the question shall arise whether any medicine or surgical appliance proved to have been supplied was so supplied in a case of necessity, the court shall decide the question as one of fact after taking into consideration all the circumstances of the case.

(3) Subject, as aforesaid, the provisions of this Act applicable generally to shops mentioned in Part II. of the Fourth Schedule (except the provisions relating to half-holidays in exempted shops) shall apply to chemists' and druggists' shops.

(4) A public or private dispensary shall be deemed to be a chemist's shop within the meaning of this Act.

107. 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.

Shops.

Closing time for certain exempted shops.

Formerly s. 108 of No. 44 of 1920 (s. 108 in 1928 reprint); amended (repeal and new section) by No. 54 of 1937. s. 34.

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 news-agents' shops in the vicinity of country stations may open for one half-hour before and after the arrival of a mail train.

Closing time for hair-dressers' shops.

Formerly s. 109 of No. 44 of 1920 as amended by No. 4 of 1922, s. 13 (s. 109 in 1928 reprint).

Amended (repeal and new section) by No. 54 of 1937, s. 35.

108. (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 dur-

ing 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 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, 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.

109. If any shop is not closed at the closing time fixed, chosen, or deemed to be chosen, for such day in respect of such shop by or under this Part of this Act, and kept closed in accordance with this Act, the shopkeeper shall be guilty of an offence against this Act:

Penalties for not closing shops.

Formerly s. 110 of No. 44 of 1920 (s. 110 in 1928 reprint).

Provided that no such shopkeeper shall be guilty of the said offence by reason only that within one half-hour after the said closing time goods have been offered or sold to customers, or customers have been attended to, who at the said closing time were in the shop being served or attended to, or waiting to be served or attended to.

110. A shop shall be deemed not to be closed within the meaning of this Act if it is not locked or otherwise effectually closed against the admission of the public, but where a shop and a factory have a common entrance, it shall be sufficient for the purposes of this Act, if such entrance is closed but not locked.

Where a shop deemed not to be closed.

Formerly s. 111 of No. 44 of 1920 (s. 111 in 1928 reprint).

Canvassing or delivering goods after hours forbidden.

Formerly s. 112 of No. 44 of 1920 (s. 112 in 1928 reprint).

111. (1) No shopkeeper and no shop assistant shall, within an area comprised within a radius of two miles from the shop in which he is engaged, canvass for orders or deliver goods to customers for more than one half-hour after the closing time fixed under this Act as the closing time for shops generally.

(2) The shopkeeper and the shop assistant shall be severally liable for any offence against this section.

Closing of exempted shops carrying on other trades.

Formerly s. 113 of No. 44 of 1920 (s. 113 in 1928 reprint).

112. (1) If in any exempted shop any article not being an article appropriate to any description of exempted shop, is on any day sold or offered or exposed for sale, such shop shall, after the general time of closing of shops in that district or locality, be deemed not to be an exempted shop, and the provisions of this Act shall apply thereto accordingly.

(2) "Exempted shop" means a shop of a description mentioned in the Fourth Schedule.

(3) An article shall not be deemed to be appropriate to any description of shop unless the sale of that class of article—

- (a) strictly forms part of the business of shops of that description; or
- (b) has been expressly authorised by proclamation in shops of that description.

Provision as to closing shop selling goods of various kinds.

Formerly s. 114 of No. 44 of 1920 (s. 114 in 1928 reprint).

Amended by No. 54 of 1937, s. 36.

Power to suspend as to any shop.

113. (1) If in any shop any trade or business is carried on, or any goods are dealt in of such descriptions or kinds as would under the provisions of this Act necessitate such shop being closed during certain hours, then such shop shall be closed for all purposes during such hours.

(2) Subject as hereinafter provided, the Chief Inspector may, whenever he shall think fit, suspend the provisions of section one hundred and twelve and of subsection (1) of this section, in any shop, to such extent and subject to such conditions as may appear desirable, and such suspension may be at any time revoked by notice under the Chief Inspector's hand served on the shopkeeper.

No such suspension shall authorise the sale, in the shop of any goods not appropriate to that description of shop, at any time when shops to which such goods are appropriate are required to be closed.

No such suspension shall be granted or allowed to continue unless the Chief Inspector is satisfied that the shop-keeper has provided and will maintain a substantial partition of the prescribed description, which will be kept locked (with the key removed).

(3) Nothing in this or the last preceding section shall affect any special right of dispensing the prescriptions of medical practitioners or supplying medical or surgical appliances in cases of necessity given to keepers of chemists' or druggists' shops under any other section of this Act, but with this exception, the provisions of subsection (1) of this and of the last preceding section shall have effect with regard to any chemist's or druggist's shop to which they are for the time being applicable.

114. (1) When, in accordance with or as a result of any award of the court under the Industrial Arbitration Act, 1912-1935, or of any registered industrial agreement which has been made a common rule, the shop assistants employed in the sale of goods in any shop, or in the principal or one of the principal departments of any shop, are required to cease work on any day at an hour earlier than that fixed or determined by or under this Act as the closing time for such shop, then the shop shall close on that day not later than the hour fixed for the cessation of work under the said award or industrial agreement, and shall continue closed until the time fixed or determined by or under this Act for the next opening of such shop.

Effect of award under Industrial Arbitration Act.

Formerly s. 115 of No. 44 of 1920 (s. 115 in 1928 reprint).

(2) This section shall not apply to any shop of a description mentioned in Part II. of the Fourth Schedule.

115. (1) Notwithstanding anything contained in any other Act, it shall not be lawful to sell by auction any goods of the class or description usually sold by retail in shops during the hours when such shops are required to be closed under this Act. Any person who acts in contravention of this section, and any employer of such person, shall each of them be guilty of an offence against this Act.

Prohibition of auction sales during certain hours.

Formerly s. 116 of No. 44 of 1920 (s. 116 in 1928 reprint).

(2) Provided that this section shall not apply to sales by auction of cereals, hay or chaff, or of second-hand furniture and household effects conducted in any dwelling-house.

Holidays.

Formerly s. 117 of No. 44 of 1920 as amended by No. 4 of 1922, s. 14 (s. 117 in 1928 reprint).

116. During every Christmas Day, New Year's Day, Good Friday, Anzac Day, and Easter Monday, and any other day that the Governor may, by proclamation, declare to be a public holiday to be observed under this Act, all shops (except those mentioned in the Fourth Schedule and registered small shops) shall be closed:

Provided that if the operation of any such proclamation is restricted to any portion of the State, this section shall, as regards such proclamation, have effect only in that portion of the State to which the proclamation extends.

Goods which may be sold in open markets.

Formerly s. 118 of No. 44 of 1920 (s. 118 in 1928 reprint).

117. Notwithstanding anything contained in this Part of this Act to the contrary it shall be lawful for any person, with the authority and consent of the local authority, to sell, expose, or offer for sale, from any stall or vehicle at an open market conducted in a street between the hours of five o'clock and eleven o'clock in the morning of any week-day, any of the undermentioned goods, that is to say—

- (a) home-made jams and preserves;
- (b) honey;
- (c) butter (other than factory butter) and eggs;
- (d) hams and bacon, not being factory-made hams or bacon.

PART IX.—PROVISIONS RELATING TO EMPLOYMENT OF ASSISTANTS IN SHOPS.

Employment of assistants after closing times.

Formerly s. 119 of No. 44 of 1920 as amended by No. 41 of 1923, s. 3 (s. 119 in 1928 reprint).

118. (1) Except as in this section provided, no shop assistant shall be employed in any shop or about the business of any shop, not being a shop of a description mentioned in the Fourth Schedule, after the expiry of one half-hour from the time fixed or determined by or under this Act for the closing of such shop until the time so fixed or determined for the next opening of such shop:

Provided that subject to the following provisions of this Act the shopkeeper may employ any shop assistant on each of any number of days not being days on which

the shop is required to be closed at one o'clock or any public holiday) not exceeding twelve in any half-year for an additional period not exceeding two and a-half hours after the expiry of such half-hour.

(2) Every assistant before being employed for any period pursuant to the proviso to subsection one, shall be allowed by the shopkeeper one hour for refreshment, but that hour shall not be reckoned as part of the said period.

(3) Nothing in this section shall extend the time during which the shop may be kept open.

119. (1) Within twenty-four hours after the commencement of the employment of a shop assistant, pursuant to the proviso to subsection (1) of section one hundred and eighteen the shopkeeper shall give to the Chief Inspector the prescribed written notice of having availed himself of the provisions of such section, such notice shall specify the names of the shop assistants so employed and the period of such employment.

Notice to be given of employment of assistants for extended time.

Formerly s. 120 of No. 44 of 1920 (s. 120 in 1928 reprint).

(2) The shopkeeper shall, prior to the commencement of such employment, post in a conspicuous position in the shop, so as to be easily visible and accessible to all shop assistants, a true copy of the notice referred to in subsection one of this section.

(3) The Chief Inspector shall cause to be kept a record of the names of all shop assistants in respect of whom such notice applies, and shall note against the name of each the extended hours worked by him, so that the full amount of overtime permitted shall not in any case be exceeded.

120. (1) Every shop assistant employed in or about the business of any shop (not being a shop mentioned in the Fourth Schedule) for more than one half-hour after the closing time of the shop, shall be paid therefor at quarter as much again as the ordinary rate, but the overtime rate shall be not less than sixpence per hour for those assistants whose ordinary wages do not exceed ten shillings per week nor less than ninepence per hour for all other assistants so employed, and shall be paid at the first regular pay day thereafter.

Overtime to be paid.

Formerly s. 121 of No. 44 of 1920 (s. 121 in 1928 reprint).

Amended by No. 54 of 1937, s. 37.

Amended by
No. 54 of
1937, s. 37.

(2) The shopkeeper shall, in addition to any payment for overtime, provide every assistant so employed with an allowance of not less than one shilling and sixpence, such allowance to be paid on the day on which such overtime is to be worked not later than the hour at which the shop is required to close under this Act.

Employment
of assistants
in shops
mentioned in
Part I.
Schedule
Four.
Formerly s.
122 of No. 44
of 1920 (s.
122 in 1928
reprint).

121. No shop assistant shall be employed in or about the business of any shop mentioned in Part I. of the Fourth Schedule, or in or about the business of a hair-dresser's shop, after the closing time fixed by this Act for the remainder of the day.

Half-holidays
in exempted
shops.

Formerly s.
123 of No. 44
of 1920 (s.
123 in 1928
reprint).

122. All shop assistants employed in any shop mentioned in the Fourth Schedule, and all assistants employed in any wholesale or commission agent's place of business, shall be allowed a half-holiday from half-past one o'clock in the afternoon on some one week day of every week, except a week in which there is a public or bank holiday allowed to such assistants as a holiday or half-holiday:

Provided that, in the case of shop assistants employed in public houses, hotels, restaurants, eating-houses, or tea-rooms, the half-holiday may be allowed from half-past two o'clock in the afternoon.

In the case of assistants employed in hairdresser's shops, the half-holiday shall be allowed on the day upon which shops which are not mentioned in the Fourth Schedule, or the majority of such shops, are required to be closed at one o'clock in the afternoon in the district or locality.

Meal hours.
Formerly s.
124 of No. 44
of 1920 (s.
124 in 1928
reprint).

123. Except as hereinafter provided every shop assistant employed in any shop, or about the business of any shop, shall be allowed one hour, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon, for dinner, and on every evening when the shop is open after half-past six o'clock, one hour between the hours of five and seven o'clock for tea: Provided that the hour for dinner may be allowed in two periods of half an hour each in restaurants, coffee palaces, and refreshment shops.

124. No shopkeeper shall except as provided for by section one hundred and eighteen, employ any person for a longer period than forty-eight hours excluding meal times in any one week, or any woman, or any young person under the age of sixteen years for a longer period than eight and three-quarter hours excluding meal times in any one day, except on one day in each week when the period may be nine hours and a-half, nor for a longer period than forty-four hours excluding meal times in any one week.

Limitation of hours of employment of women and young persons.

Formerly s. 125 of No. 44 of 1920 as amended by No. 4 of 1922, s. 15 (s. 125 in 1928 reprint).

Amended by No. 54 of 1937, s. 38.

(2) In every shop in which one or more of the classes of business mentioned in the Fourth Schedule is carried on, every shop assistant shall be permitted to complete the working of the maximum number of hours permitted under subsection (1) on any day, within a period extending over not more than twelve hours from the hour of commencing to the hour of finishing work for the day.

(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.

Amended (repeal and new s.s.) by No. 54 of 1937, s. 38.

(4) No shop assistant shall be required to commence work on any day until a period of not less than ten hours has elapsed from the hour at which such shop assistant ceased work on the next preceding day.

(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.

Inserted by No. 54 of 1937, s. 38.

125. With respect to female shop assistants, the following provisions shall apply:—

(a) Reasonable and proper seating accommodation to the satisfaction of the inspector shall at all times be provided for them in the shop, and shall be in the proportion of at least one seat to every three or portion of three female shop assistants employed.

Seating accommodation to be provided for female assistants.

Formerly s. 126 of No. 44 of 1920 (s. 126 in 1928 reprint).

Amended by No. 54 of 1937, s. 39.

- (b) They shall be allowed to avail themselves of such accommodation at reasonable intervals throughout the day.
- (c) They shall not be dismissed, nor shall their wages be reduced by reason merely that they availed themselves of the sitting accommodation, unless the shopkeeper proves that they have done so to an unreasonable extent.

Added by No. 54 of 1937, s. 39.

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.

Payment of wages.

Formerly s. 127 of No. 44 of 1920 (s. 127 in 1928 reprint).

126. (1) Payment of wages to all shop assistants shall be made in full at weekly or at such other intervals as may be agreed upon, being in no case longer than fortnightly intervals.

(2) If a shopkeeper makes default for fourteen days in the payment in full of any money payable by him as aforesaid, he shall be guilty of an offence against this Act.

[Section 128 of No. 44 of 1920 (s. 128 in 1928 reprint) repealed by No. 54 of 1937, s. 40.]

Hairdressing schools.

Formerly s. 128A of No. 44 of 1920 as inserted therein by No. 54 of 1937, s. 41.

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

(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.

Records to be kept in shop.

Formerly s. 129 of No. 44 of 1920 as amended by No. 4 of 1922, s. 16 (s. 129 in 1928 reprint).

Amended by No. 54 of 1937, s. 42.

128. (1) In every shop there shall be kept by the shopkeeper a record of—

- (a) the name and sex of each shop assistant employed;
- (b) the age of each shop assistant under twenty-three years of age;

- (c) the class of work performed by each shop assistant;
- (d) the hours during which the shop assistants are employed;
- (e) the extra hours of employment under section one hundred and eighteen;
- (f) the days on which shop assistants are allowed a half-holiday or holiday;
- (g) the wages paid to each shop assistant;
- (h) the amount paid for extra hours of employment under section one hundred and eighteen;
- (i) such other matters as the shopkeeper is required to keep a record of pursuant to any award or industrial agreement under the Industrial Arbitration Act, 1912-1935.

Such record shall be entered up from day to day, and shall be signed weekly, if correct, by each shop assistant. Amended by No. 54 of 1937, s. 42.

(2) The shopkeeper and shop assistants shall be severally responsible for the proper weekly posting up of the record book, which shall be produced to any inspector on demand.

[Subsection (3) deleted by No. 4 of 1922, sec. 16.]

129. Every person who—

- (a) makes in any prescribed book, notice, list, record, or document an entry which in any material particular is false; or
- (b) makes or signs any return, record, or document under this Act, which in any material particular is false,

Penalty for making false entries.

Formerly s. 130 of No. 44 of 1920 (s. 130 in 1928 reprint).

Amended by No. 54 of 1937, s. 43.

shall be liable to a penalty not exceeding twenty pounds.

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

- (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;

Records to be kept in Fourth Schedule shops.

Formerly s. 131 of No. 44 of 1920 (s. 131 in 1928 reprint).

Amended (repeal and new section) by No. 54 of 1937, s. 44.

- (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.

131. In any prosecution of a shopkeeper for an offence against this Part of this Act, proof that at any time a shop assistant is in a shop shall be *prima facie* evidence that at the same time he was employed in the shop by such shopkeeper.

Prima facie
evidence of
employment
in shop.

Formerly s.
132 of No. 44
of 1920 (s.
132 in 1928
reprint).

PART X.—REGISTRATION OF SHOPS AND WAREHOUSES

132. (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.

(2) An application for registration shall be made to the Chief Inspector in the prescribed form, and shall specify—

- (a) the name in full of the shopkeeper or occupier of the warehouse;
- (b) the trading name of the shop or warehouse;
- (c) the place where such shop or warehouse is situated;
- (d) the nature of the business or businesses carried on in such shop or warehouse;
- (e) the number of persons employed or to be employed in such shop or warehouse, and such other particulars as may be prescribed.

Registration.

Formerly s.
133 of No. 44
of 1920 as
amended by
No. 4 of
1922, s. 17
(s. 188 in
1928 reprint).

Amended by
No. 54 of
1937, s. 45.
Amended
(repeal and
new s.s.) by
No. 54 of
1937, s. 45
(a).

Amended by
No. 54 of
1937, s. 45
(b).

[Subsection (3) of No. 44 of 1920 (ss. (3) in 1928 reprint deleted by No. 54 of 1937, s. 45 (c).]

(3) 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.

Formerly s.s.
(4).

Amended
(repeal and
new ss.) by
No. 54 of
1937, s. 45
(d).

(4) No fee shall be payable for the registration of any premises in respect of which a publican's general license, wayside house license, Australian wine and beer license,

Amended by
No. 4 of
1922, s. 17.

Formerly s.s.
(5); amended
by No. 54 of
1937, s. 45
(e).

Australian wine license, railway refreshment room license or hotel license.

Formerly s.s.
(6).

(5) Any person in occupation of any shop or warehouse not registered as required by this Act shall be liable to a penalty not exceeding ten pounds.

Fees payable.
Second
Schedule.

Formerly s.s.
(7);
amended by
No. 64 of
1937, s. 45
(f).

(6) The fees payable on a registration or re-registration of a shop or warehouse shall be such as are set out in the Second Schedule to this Act.

PART XI.—SANITATION OF SHOPS AND WAREHOUSES.

Sanitation
Rules.

Formerly s.
134 of No. 44
of 1920 (s.
134 in 1928
reprint).

133. For the better sanitation of shops and warehouses, the following rules shall at all times be observed by occupiers:—

- (a) Sufficient privy and lavatory accommodation shall be provided for all persons employed in the shop, or warehouse, and where members of both sexes are employed, not being members of the same family, the accommodation shall be entirely separate for each sex, and screened from public view to the satisfaction of the inspector.
- (b) The shop or warehouse shall not be overcrowded so as to injuriously affect the health of the persons employed therein.
- (c) The shop or warehouse shall be ventilated in such manner as to provide a sufficient supply of fresh air, and to carry off and render harmless as far as practicable all gases, fumes, dust, and other impurities arising in the course of the work carried on therein.
- (d) Without limiting the operation of the last preceding paragraph the inspector may, by requisition to the occupier, require the occupier to supply fans or other efficient appliances to carry off and render harmless all such gases, fumes, dust, and other impurities.
- (e) The inspector may from time to time, by requisition to the occupier, determine as to the shop or warehouse 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.

- (f) The space to be reserved as aforesaid 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.
- (g) A sufficient supply of fresh drinking water shall be provided for the free use of the persons employed in the shop or warehouse.

134. Every person employed in or in connection with any shop or warehouse in the manufacture, handling, or delivery of any bread, meat, milk, confectionery, or other article for human consumption, or of any textile fabric, who 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 Commissioner of Public Health, and the provisions of section seventy-seven shall apply in the same manner as if the shop or warehouse were a factory.

In food and clothing shops.

Formerly s. 135 of No. 44 of 1920 (s. 135 in 1928 reprint).

PART XII.—SUPPLEMENTAL.

135. No person of 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.

Restriction as to hours of Asiatics.

(1904, No. 22, s. 23.)

Formerly s. 35 of No. 44 of 1920 (s. 35 in 1928 reprint).

Transposed to Part XII. by No. 54 of 1937, s. 54.

136. All persons (except the occupier) who work in a factory, whether for wages or not—

Definition of employment and working for hire.

Formerly s. 48 of No. 44 of 1920 (s. 48 in 1928 reprint) and

amended by No. 54 of 1937, s. 21, and transposed to Part XII. by No. 54 of 1937, s. 54 (2).

Amended by No. 54 of 1937, s. 21.

- (a) in a manufacturing process or handicraft; or
- (b) in cleaning any part of a factory used for any manufacturing process or handicraft; or
- (c) in cleaning or oiling any part of the machinery; or
- (d) in any other kind of work whatsoever incidental to or connected with any manufacturing process or handicraft, or connected with the article made or otherwise the subject of any manufacturing process or handicraft,

shall be deemed to be employed by the occupier.

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.

Voidance of registration.
Formerly s. 27 in No. 44 of 1920 (s. 27 in 1928 reprint) and amended by No. 54 of 1937, s. 9 (1), and transposed to Part XII. by No. 54 of 1937, s. 9 (2).

137. (1) If during the currency of any registration of factory, shop or warehouse any person other than the person who effected such registration is or becomes the occupier or one of the occupiers thereof, then the registration shall be and become void; but a fresh registration may (subject to this Act) be effected.

(2) If at any time during the currency of any registration of a factory, shop or warehouse more persons are employed than the maximum with regard to which payment has been made for registration, then the occupier shall pay to the Chief Inspector the difference between the amount that has been paid and the amount that would have been payable if the fee for registration had been fixed with regard to the number actually employed at such time. The provisions of this subsection shall have effect from time to time as occasion demands.

Penalty: Five pounds.

(3) Any fresh registration necessitated by reason of the provisions of subsection (1) of this section shall be subject to the following conditions, and shall, if such conditions be complied with, be effected without fee. The occupier shall within fourteen days of the date on which any person other than the person who effected registration becomes the occupier or one of the occupiers, send to the Chief Inspector a notice specifying the full name of such person, and the date on which such person became the occupier or one of the occupiers of such factory, shop or warehouse.

Payment of wages and provision for minimum wage.
Formerly s. 45 of No. 44 of 1920 (s. 45 in 1928 reprint) and amended by No. 54 of 1937, s. 18;

138. In order to prevent persons being employed in factories, shops, or warehouses, without reasonable remuneration in money, the following provisions shall apply:—

(a) Every person who is employed in any capacity in a factory, shop, or warehouse, shall be entitled to receive from the occupier such payment for

his work as is agreed on: Provided that (notwithstanding any agreement purporting to fix a lesser sum) he shall be entitled to be paid ten shillings per week for the first year of employment in the trade, fifteen shillings per week for the second year, twenty shillings per week for the third year, and so on by additions of five shillings per week for each year of employment in the same trade, until a wage of thirty-five shillings is reached, and thereafter a wage of not less than thirty-five shillings per week.

transposed to
Part XII. by
No. 54 of
1937, s. 18
(2).

- (b) Such rate of payment shall in every case be irrespective of overtime.
- (c) Such payment shall be made in full at not longer than fortnightly intervals.
- (d) If the occupier makes default for seven days in the full and punctual payment of any money payable by him as aforesaid, he is liable to a fine not exceeding five shillings for every day thereafter during which or any part of such default continues.
- (e) Without affecting any other remedies for the recovery of money payable under this section to a person employed in a factory, proceedings under the Master and Servants Act, 1892, for the recovery thereof, as being due under a contract of service, may be taken by an inspector in the name and on behalf of the person entitled to payment in any case where the inspector is satisfied that default in payment has been made.
- (f) The occupier of a factory, shop, or warehouse, 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 by any employee, except to the extent of 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, and the occupier of a factory shall not make or attempt to make any

deduction from the wages or other remuneration for work actually and properly done by an employee, except to the extent aforesaid.

Amended by
No. 54 of
1937, s. 18.

- (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.

Prohibition
of premiums.
Formerly s. 46
of No. 44
of 1920 (s. 46
in 1928
reprint);
amended by
No. 54 of
1937, s. 19;
transposed to
Part XII. by
No. 54 of
1937, s. 19
(2).

Inserted as
s. 1A by
No. 54 of
1937, s. 19
(1) (b).

139. (1) No premium in respect of the employment of any person shall be paid to or received by the occupier of any factory, shop or warehouse, whether such premium is paid by the person employed or by any other person.

(2) 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.

Amended by
No. 54 of
1937, s. 19
(1) (c) (i)
and (c) (ii),
formerly ss.
(2).

(3) In any case where a premium has been paid or received in breach of this section, or where the occupier of any factory, shop, or warehouse has made any deduction from any wages, or received from the person employed or from any person on his behalf any sum in respect of such premium or employment, then, irrespective of any fine to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the

occupier in civil proceedings instituted by an inspector in the name and on behalf of the person concerned, 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.

(4) 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.

Inserted as s.s. (3) by No. 54 of 1937, s. 19 (1) (d).

(5) Where any person seeks to procure the insertion in any newspaper of any advertisement or notification mentioned in subsection (4) 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.

Inserted as s.s. (4) by No. 54 of 1937, s. 19 (1) (d).

(6) No person seeking to procure the insertion in any newspaper of any advertisement or notification mentioned in subsection (4) of this section, shall give to the proprietor or publisher of such newspaper a name and address which is false in any particular.

Inserted as s.s. (5) by No. 54 of 1937, s. 19 (1) (d).

(7) Where any advertisement or notification mentioned in subsection (4) 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.

Inserted as s.s. (6) by No. 54 of 1937, s. 19 (1) (d).

140. (1) The occupier shall, on the request of any person leaving employment in the factory, shop or warehouse give to such person a certificate under his hand, stating correctly, to the best of his knowledge, information, and belief, the period during which such person has been employed.

Certificate of employment.

Formerly s. 47 of No. 44 of 1920 (s. 47 in 1928 reprint).

Amended by No. 54 of 1937, s. 20; and transposed to Part XII, by No. 54 of 1937, s. 20 (2).

(2) Every occupier who refuses or neglects to give any such certificate on the request of any person employed by him, or gives any certificate knowing the same to be false, is liable to a fine not exceeding twenty pounds.

Provisions as to sleeping places at factories.

Formerly s. 65 of No. 44 of 1920 (s. 65 of 1928 reprint).

Amended by No. 54 of 1937, s. 23; and transposed to Part XII by No. 54 of 1937, s. 23 (2).

141. (1) No factory, shop or warehouse where any person is at any time employed shall be used as a sleeping place.

(2) No room or place connected with or in the same enclosure as any such factory, shop or warehouse shall be used as a sleeping place, unless such sleeping place is effectually separated from the factory, shop or warehouse by a substantial wall or partition extending from the floor to the ceiling.

(3) Every person who commits or permits or is party or privy to any contravention of this section commits an offence against this Act.

Penalty: For the first offence two pounds, and for every subsequent offence five pounds.

Evidence as to person employed or work done in breach of Act.

Formerly s. 136 of No. 44 of 1920 (s. 136 in 1928 reprint).

Amended by No. 54 of 1937, s. 46.

142. In any proceedings against the occupier of a factory for employing any person in breach of this Act—

(1) Subject to the express provisions of section thirty-eight proof of the person being found in any part of a factory 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 court, 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.

Proof as to work being done in breach of Act.

Formerly s. 137 of No. 44 of 1920 (s. 137 in 1928 reprint).

143. (1) In any proceeding for a breach of this Act in which it shall be material to prove that any work was done in a factory at any time, proof that at the time sounds were heard proceeding from the factory such as would ordinarily be heard if persons were working therein in the usual manner, or that any member of the police force or an inspector was refused or hindered in gaining admission into the factory shall be *prima facie* evidence that work was then being done therein.

(2) Any work done or any person employed in a factory shall be deemed to have been done or employed with the knowledge and by the authority of the occupier unless the contrary be proved.

144. 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.
Formerly s. 138 of No. 44 of 1920 (s. 138 in 1928 reprint).

145. 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.

Provision as to person employed both in a factory and a shop.
Formerly s. 138A of No. 44 of 1920 as inserted therein by No. 54 of 1937, s. 47.

146. 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.

Adjacent buildings included in factory.
Formerly s. 139 of No. 44 of 1920 (s. 139 in 1928 reprint).

147. (1) Subject to the express provisions of this Act where any act or default constituting an offence against this Act, for which any occupier of a factory or warehouse, or shopkeeper 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.

Exemption of occupier from penalty upon proof of another being the real offender.
Formerly s. 140 of No. 44 of 1920 (s. 140 in 1928 reprint).

(2) Where such occupier or shopkeeper is charged with any such act or default so done or committed by some other person, the said occupier or shopkeeper 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.

Amended by No. 54 of 1937, s. 48.

(3) Where an inspector is satisfied, before instituting a proceeding for any such offence against the said occupier or shopkeeper, that such occupier or shopkeeper, if such proceedings were instituted against him would,

under the foregoing provisions of this section, be exempt from any penalty, and the said occupier or shopkeeper 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 or shopkeeper.

Compulsory officers under Education Acts to have certain powers.
Formerly s. 141 of No. 44 of 1920 (s. 141 in 1928 reprint).

148. 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 sections forty-six and fifty-five of this Act.

Safety appliances for machinery, etc.

Formerly s. 141A of No. 44 of 1920 as inserted therein by No. 54 of 1937, s. 49.

149. 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.

Abstract of Act, etc., to be posted in warehouse.

Formerly s. 142 of No. 44 of 1920 (s. 142 in 1928 reprint).

150. Every shopkeeper or occupier of a warehouse employing one or more shop assistants shall cause to be affixed and maintained in some conspicuous position in the shop or warehouse so as to be easily visible and accessible to every shop assistant employed therein, the prescribed abstract of this Act and of the Regulations, and of any industrial award or agreement made under the Industrial Arbitration Act, 1912-1935, which is applicable to the industry carried on in such shop or warehouse, and in default of so doing shall be liable to a penalty not exceeding five pounds.

General penalty.

Formerly s. 143 of No. 44 of 1920 (s. 143 in 1928 reprint).

151. Every occupier of a factory or warehouse, and every shopkeeper or other person failing to observe any provision of this Act which he ought to have observed or to do any act directed to be done, or doing any act forbidden to be done by this Act, shall be guilty of an offence against this Act and shall be liable, if there is no penalty specially provided for such offence, for the first offence to a penalty not exceeding five pounds, and on a second or subsequent conviction to a penalty not exceeding fifty

pounds, and if the offence is a continuing one every such person shall be liable to a further penalty not exceeding five pounds for each day on which the offence is continued after the first day.

152. Notwithstanding anything contained in the Justices Act, 1902-1936, 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.

Minimum penalty.

Formerly s. 144 of No. 44 of 1920 (s. 144 in 1928 reprint).

Amended (repeal and new section) by No. 54 of 1937, s. 50.

153. (1) In all proceedings taken against any person for any offence against this Act—

(a) the information may be laid in the name of an inspector, or police officer or constable, or of any person aggrieved;

(b) it shall be sufficient to allege in the information that the factory, warehouse, or shop was a factory, warehouse, or shop within the meaning of the Act;

(c) judicial notice shall be taken of every proclamation and of the appointment of every inspector;

(d) 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, as against such occupier be conclusive evidence of the facts therein stated;

(e) the production of a copy of the record mentioned in section one hundred and twenty-eight, and certified in writing by the inspector, shall be *prima facie* evidence of the facts recorded therein;

(f) when the complaint is laid by any person other than an inspector, the complainant may be represented at the hearing by an inspector.

(2) All such proceedings shall be heard and determined before and by a police or resident magistrate under and subject to the provisions of the Justices Act, 1902-1936.

Information for offences.

Formerly s. 145 of No. 44 of 1920 (s. 145 in 1928 reprint).

Proof of nationality.

Formerly s. 146 of No. 44 of 1920 (s. 146 in 1928 reprint).

154. In any proceeding under this Act in which the question of whether any person bodily present before any court is of any particular nationality, race, or descent or not shall arise, the court may decide the question on its own view and judgment.

Notices to be in English.

Formerly s. 147 of No. 44 of 1920 (s. 147 in 1928 reprint).

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

Cancellation of registration of factory on third conviction.

Formerly s. 148 of No. 44 of 1920 (s. 148 in 1928 reprint).

156. On a third conviction of the occupier of a factory the Minister may, in his discretion, cancel the registration of the factory, and thereupon the factory shall become unregistered and shall not be again registered without the sanction of the Minister.

Liability of occupier independently of this Act.

Formerly s. 149 of No. 44 of 1920 (s. 149 in 1928 reprint).

157. (1) Nothing in this Act shall operate in any way to relieve the occupier of any factory from any liability which independently of this Act he may incur for damage or compensation in respect of any act or neglect or in respect of any accident or its consequences.

(2) The payment by an occupier of any fine under this Act for non-payment of wages or remuneration to any employee shall not relieve him from his civil liability to such employee.

Regulations.

Formerly s. 150 of No. 44 of 1920 (s. 150 in 1928 reprint).

158. The Governor may from time to time make such regulations as may be deemed necessary to carry out the object and purposes of this Act, and may in those regulations authorise any penalty not exceeding five pounds to be imposed for any breach of the same.

Saving of provisions of Inspection of Machinery Act, 1921.

Formerly s. 151 of No. 44 of 1920 (s. 151 in 1928 reprint).

Amended by No. 54 of 1937, s. 51.

159. Subject to the express provisions of section one hundred and forty-nine of this Act an inspector shall not have any jurisdiction over any machinery or accidents caused by any machinery or boiler to which the Inspection of Machinery Act, 1921, applies, and no power conferred by this Act on an inspector in relation to machinery of any kind shall be exercised unless the inspector holds a certificate from the Chief Inspector of Machinery that in his opinion such inspector is competent to exercise such power.

160. All records, books, forms, or other documents required to be kept under this Act by any occupier of a factory or warehouse or by any shopkeeper may be printed by the Government Printer, and may be obtainable from the Government Printer or an inspector, and shall be charged for at a fee to be fixed by regulation.

Printing of Records.
Formerly s. 152 of No. 44 of 1920 (s. 152 in 1928 reprint).

161. In every restaurant or tea room the shopkeeper shall, if required by the inspector, provide a suitable change and rest room for the exclusive use of female shop assistants employed by him. Such room shall be provided with suitable seats and a couch or lounge, and be otherwise furnished to the satisfaction of the inspector.

Rest room for assistants in restaurants.
Formerly s. 153 of No. 44 of 1920 (s. 153 in 1928 reprint).

162. (1) Any shopkeeper or occupier of a factory or warehouse may, by notice served on the Chief Inspector, select periods of six months or seven days different from those specified in section four as the period which shall constitute a half year or week, as the case may be, in respect of the establishment carried on by him, and this Act shall have effect with regard to such establishment in accordance with the selection so made.

Alteration of periods comprised in a half-year or week.
Formerly s. 154 of No. 44 of 1920 (s. 154 in 1928 reprint).

(2) Every such selection shall remain in force and unaltered for at least six months.

163. (1) Nothing in this Act contained shall in any way affect the jurisdiction conferred on the Arbitration Court established under the Industrial Arbitration Act, 1912-1935, and any provisions of this Act as to any matters within the jurisdiction of the said Court may be varied, altered, modified, or excluded by any award now made or hereafter to be made by the said Court or by any industrial agreement now made or hereafter to be made under the said Act: Provided that any such industrial agreement shall not have effect as to any such matters unless and until the same has been declared a common rule by the said Court.

Effect of industrial awards and agreements.
Formerly s. 155 of No. 44 of 1920 (s. 155 in 1928 reprint).

(2) The provisions of subsection (1) with regard to awards of the said Arbitration Court shall also apply to awards of the Commonwealth Court of Conciliation and Arbitration under the Commonwealth Conciliation and

Arbitration Act, 1904-1930, and to any agreement made under section twenty-four thereof, and certified by the President of the said Commonwealth Court.

(3) The provisions of this Act in restriction of overtime, except insofar as such restrictions apply to women and boys, shall not apply to any party bound by any such award or agreement as aforesaid if in any such award or agreement provision is made for payment for overtime.

Inspectors to furnish local reports.

Formerly s. 156 of No. 44 of 1920 (s. 156 in 1928 reprint).

164. 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.

Exemption of portion of State from operation of Act.

Formerly s. 157 of No. 44 of 1920 (s. 157 in 1928 reprint).

165. (1) The Governor may from time to time by proclamation exempt any portion of the State from the operation of this Act, or any Part thereof, and may at any time revoke any such proclamation.

(2) Whilst any such proclamation is in force this Act or the Part thereof, as the case may be, shall not be operative in the portion of the State thereby exempted.

(3) Every proclamation made under this section shall within fourteen days of the date of its publication in the *Government Gazette*, if Parliament is then sitting, be laid on the Table of both Houses of Parliament, and if Parliament is not sitting then within thirty days of the opening of the next ensuing session, such proclamation shall be laid on the Table of both Houses.

(4) If either House of Parliament passes a resolution disallowing any such proclamation, of which resolution notice has been given at any time within thirty sitting days of such House after such proclamation has been laid before it, such proclamation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done or of the omission of anything in the meantime. This subsection shall apply notwithstanding that the said thirty sitting days, or some of them, do not occur in the same session of Parliament, or during the same Parliament as that in which the proclamation is laid before the House.

(5) When a resolution has been passed, as hereinbefore mentioned, notice of such resolution shall be published in the *Gazette*.

166. The Governor may, by proclamation, temporarily suspend the operation of this Act in so far as it applies to the closing time fixed or appointed for any shop or shops either generally or in any specified locality or district.

Governor may suspend operation of Act as to closing time.

Formerly s. 158 of No. 44 of 1920 (s. 158 in 1928 reprint).

167. Nothing in this Act shall apply—

Exemption of bazaars, etc.

- (1) to any bazaar or fair where goods are sold or exposed for sale in order that the net proceeds of the sale of the goods may be devoted to religious, charitable or public purposes only; or
- (2) to any show held by an agricultural or horticultural society outside the metropolitan shop district; or
- (3) to any show held by an agricultural or horticultural society within the metropolitan shop district that does not extend over more than one day.

Formerly s. 159 of No. 44 of 1920 (s. 159 in 1928 reprint).

168. An annual report of the operation of this Act throughout the State shall be laid before Parliament.

Annual report.

Formerly s. 160 of No. 44 of 1920 (s. 160 in 1928 reprint).

NOTE.—Section 54 of the Act No. 54 of 1937 provided as follows:—

- (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.
- (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.

THE FIRST SCHEDULE.

First
Schedule.
No. 44 of
1920.
(First
Schedule in
1928 reprint).

- The Factories Act, 1904 (No. 22 of 1904).
- The Factories Amendment Act, 1904 (No. 44 of 1904).
- The Early Closing Act, 1902 (No. 24 of 1902).
- The Early Closing Act Amendment Act, 1904 (No. 1 of 1904).
- The Early Closing Amendment Act, 1904 (No. 52 of 1904).
- The Early Closing Act Amendment Act, 1911 (No. 1 of 1912).
- The Early Closing Act Amendment Act, 1917 (No. 7 of 1917).
- The Seats for Shop Assistants Act (63 Vict, 52, 1899).

THE SECOND SCHEDULE.

Second
Schedule.
No. 44 of
1920.
(Second
Schedule in
1928 reprint).

Fees on Registration of a Factory, Shop, or Warehouse.

	Amount of annual fee.
	£ s. d.
Where the maximum number of persons employed or to be employed in the factory, shop, or warehouse does not exceed three	0 2 6
Where such number exceeds three but 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

THE THIRD SCHEDULE.

Third
Schedule.
No. 44 of
1920.
(Third
Schedule in
1928 reprint).
Amended by
No. 6 of
1932. s. 3.

- Freezing Works.
- Fellmongeries and pelt works.
- Fish-curing or preserving works.
- Jam factories (during the small fruit season, that is between the first of January and the first of April in every year).
- Bacon factories.
- Sausage-casing factories.
- Bakehouses.
- Continuous Process Plants.
- Condensed milk and milk products (other than butter) factories (during the period between the first day of September in each year and the first day of February next following the same).

Added by No.
6 of 1932, s.
3.

THE FOURTH SCHEDULE.

PART I.

- Bakers' Shops.
- News Agents' Shops.
- Stationers and Booksellers.
- Railway Book Stalls.
- Florists.
- Confectioners.
- Fruit Shops.
- Vegetable Shops.
- Milk Shops.
- Tobacconists.

Fourth Schedule.

No. 44 of 1920 as added thereto by No. 4 of 1922, s. 19.

(Fourth Schedule in 1928 reprint).

Amended by No. 54 of 1937, s. 52.

PART II.

- Restaurants, Coffee Palaces, Boarding Houses, and Refreshment Shops.
- Cooked Meat Shops.
- Fish and Oyster Shops.
- Premises in respect of which a Publican's General License, Wayside House License, Australian Wine and Beer License, Australian Wine License, or Hotel License has been or may hereafter be granted.
- Undertakers.
- Newspaper Offices.

THE FIFTH SCHEDULE.

The Factories and Shops Act, 1920-1937.

Fifth Schedule

No. 44 of 1920.

(Fifth Schedule in 1928 reprint).

Notice of Choice by Shopkeeper of Closing Time on Saturday.

To [the Chief Inspector.]

I (or we) hereby give notice that I (or we) have chosen one o'clock, p.m., on Saturday as the closing time for my (or our) shop, situate at [name of street] in the [name of Municipality or District] District.

Dated the day of , 19 .

[Signature of Shopkeeper.]
[Description of Shop.]

Factories and Shops.

THE SIXTH SCHEDULE.

Sixth Schedule.
No. 44 of 1920.
(Sixth Schedule in 1928 reprint).

The Factories and Shops Act, 1920-1937.

Memorial.

To [the Minister charged with the administration of the Act.]

We, the undersigned, being a majority of the shopkeepers in the District, ask that the day in every week for the closing of shops in the said District at one o'clock may be altered to

Dated the _____ day of _____, 19 .

Signature of Shopkeeper,
Address

THE SEVENTH SCHEDULE.

Seventh Schedule to No. 44 of 1920 as added thereto by No. 4 of 1922, s. 20.

The Factories and Shops Act, 1920-1937.

(Seventh Schedule in 1928 reprint).

Voting Paper on Poll concerning Closing Hours of Shops.

.....Shop District.

Amended by No. 54 of 1937, s. 53.

Do you vote that shops generally throughout the District shall close at one o'clock, p.m., on (a).....?	}	YES.	<input type="checkbox"/>
		NO.	<input type="checkbox"/>

(a) Insert the name of the week day in respect of which the poll is to be taken.

Direction to Voters.

If you vote "YES," insert a cross X in the square opposite the word "YES."

If you vote "NO," insert a cross X in the square opposite the word "NO."

It will suffice if the point of intersection of the cross is within the square.