

## No. XXXVII.

**An Act to make provision for the supervision and regulation of Factories, Bakehouses, Laundries, Dye-works, and Shops; for the limitation in certain cases of the hours of working therein; to extend the liability of employers for injuries suffered by employees in certain cases; and for other purposes. [16th November, 1896.]**

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act shall come into force on the first day of January, one thousand eight hundred and ninety-seven (hereinafter referred to as the

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the commencement of the Act), and may be cited as the "Factories and Shops Act of 1896." It is divided into seven Parts, embracing the following subjects, that is to say:—

**PART I.—Appointments—Registration and inspection.**

**PART II.—Records.**

**PART III.—Sanitary arrangements, &c.**

**PART IV.—Fencing of machinery—Protection from fire.**

**PART V.—Ages of persons employed and certificates.**

**PART VI.—Shops.**

**PART VII.—Miscellaneous.**

**2.** In this Act, unless the context requires another meaning,— *Interpretation.*  
"Child" means any person under the age of fourteen years.

"Employee" means any person in the employment of an occupier.

Any person who works in a factory or shop, whether for wages or not, at any kind of work whatever, shall be deemed to be an employee and to be employed within the meaning of this Act.

"Factory" means—

(a) any office, building, or place in which four or more persons are engaged directly or indirectly in working at any handicraft, or in preparing or manufacturing articles for trade or sale; and includes bakehouses, laundries, and dye-works in which four or more persons are engaged; but does not include any building or place in which the persons engaged in working are shown to the satisfaction of the Minister to be all members of one family, and in which steam or other mechanical power is not used;

(b) any office, building, or place in which Chinese are so engaged; and

(c) any place or building where steam or other mechanical power or appliance is used in manufacturing goods or packing them for transit;

but does not include any building used for the manufacture of dairy produce, nor any woolshed used for shearing sheep, or building used for dumping wool, or any ship.

Where the operations of any manufacturer are carried on for safety or convenience in several adjacent buildings grouped together in one enclosure, these shall be classed and included as one factory.

"Governor" means the Governor with the advice of the Executive Council.

"Inspector" means an inspector of factories and shops, appointed under this Act.

"Minister" means the Minister for the time being administering this Act.

"Occupier" means the person, company, or association employing persons in any factory or shop, or occupying any office, building, or place used as a factory or shop, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of any factory or shop.

"Prescribed" means prescribed by this Act or regulations under this Act.

"Shop" means any building or place or portion of a building or place in which goods are exposed or offered for sale by retail.

"Shopkeeper" means the occupier of a shop.

**3. (i)** This Act shall apply only to such localities as are *Act to apply only to declared districts.* declared by the Governor, by proclamation in the *Gazette*, to be a *declared districts.* district or districts for the purposes of this Act.

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Factories may be exempted.

(II) The Governor may, by proclamation in the *Gazette*, exempt either wholly or in part, any factory or class of factories, or shop or class of shops, in any district or part thereof from the operation of this Act, and such factory or class of factories, or shop or class of shops, shall thereupon be exempted as aforesaid.

(III) The Governor may, by proclamation as aforesaid, revoke, vary, or alter any proclamation published under this section.

## PART I.

*Appointment of inspectors ; registration and inspection of factories, and inspection of shops.*

Appointment of inspectors.

4. The Governor may appoint so many inspectors of factories and shops as may appear necessary for carrying into effect the provisions of this Act.

Registration of existing factories.

5. Every person who at the commencement of this Act is the occupier of a factory shall within twenty-eight days thereof serve on the inspector of the district, or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed, and the inspector, or such other person as aforesaid, shall on the receipt of such notice register the factory, and issue a certificate of registration to such occupier. Should any occupier neglect or omit to serve the notice as herein provided he shall be liable to a penalty not exceeding ten pounds.

Registration of new factories.

6. (1) Every person intending to go into occupation of any unregistered factory shall, not less than seven days before going into occupation, and

(II) Every person in occupation of any tenement which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall, not less than seven days before it is so used as a factory,

forward to the inspector of the district or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice shall register the building and issue a certificate of registration to the person giving such notice.

Any occupier or intending occupier who fails to comply with the provisions of this section shall be liable to a penalty not exceeding ten pounds.

Powers of inspectors.

7. Every inspector shall have power—

- (i) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop ;
- (ii) to take with him in either case an officer of health or inspector of nuisances ; or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable ;
- (iii) to require the production of the certificate of registration of any factory, or any book, notice, record, list, or document which is by this Act, or the regulations thereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same ;

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- (iv) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;
- (v) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined;
- (vi) to exercise all other powers that may be necessary for carrying out the provisions of this Act, or of such provisions of any Act relating to public health as the Governor may from time to time determine.

8. The occupier of every factory or shop, his agents and servants, shall furnish the means required by an inspector necessary for an entry, inspection, examination, and inquiry, or the exercise of his powers under this Act in relation to such factory or shop.

9. Every person who wilfully delays an inspector in the exercise of any power under this Act, or who fails to comply with a requisition of an inspector made under any such power as aforesaid, or to produce any certificate of registration, book, record, certificate, notice, list, or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents any person from appearing before or being examined by an inspector, or attempts so to conceal or prevent any person, shall be deemed to obstruct an inspector in the execution of his duties under this Act, and shall for each offence be liable to a penalty not exceeding twenty pounds: Provided that no person shall be required to answer any question or give any evidence incriminating himself.

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

11. Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the inspector named in any such certificate, or falsely pretends to be an inspector under this Act shall be liable to be imprisoned for a term not exceeding six months with or without hard labour.

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**PART II.***Records.*

12. The occupier of a factory or shop shall keep, or cause to be kept, a record of the names of all employees in the factory or shop, together with the ages of all employees under eighteen years of age, and such other particulars as may from time to time be prescribed.

The occupier shall cause to be affixed and maintained in some conspicuous place at or near the entrance of every factory, and in such other parts thereof as the inspector may direct, a copy of this Act and of the regulations made under it; also a notice containing—

- (a) the name and address of the inspector for the district;
- (b) the usual working hours of the factory.

13. The occupier of a factory shall, if so required by the Minister, furnish to him a scale of the wages paid to the employees therein, and also the rates of payment made for piecework to the persons working in and in connection with such factory.

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Record of outside work.

14. (i) The occupier of a factory shall, for the information of the inspectors, who alone shall be entitled to demand such information, keep a record in the prescribed form and with the prescribed particulars, showing—

- (a) the name of every person employed by him in the business of a factory outside such factory;
- (b) the places where those persons are employed;
- (c) the rate of payment in each instance.

(ii) The occupier shall forward such record to the inspector for his information whenever demanded by him, and shall forward to the inspector at such times as may be prescribed, a copy or summary of every such record in such form as may be prescribed.

(iii) An occupier who makes default in keeping such record or in forwarding it as hereinbefore provided shall be liable to a penalty not exceeding ten pounds.

Occupier for purposes of this section.

15. Every person who, whether as principal, contractor, subcontractor, or otherwise, directly or indirectly issues or gives out, or authorises or permits to be issued or given out, any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale, shall be deemed to be the occupier of a factory for the purposes of the last preceding section; and the person to whom such material is issued or given out shall, for the purposes of the said section, be deemed to be employed by the occupier in the business of the factory outside such factory.

Inspector not to divulge contents of records.

16. Any inspector who divulges the contents of any record or makes use of his knowledge of the contents thereof, except to the Minister or for the purposes of this Act or for enforcing the provisions thereof, or for statistical purposes in connection with a Department of the Public Service, shall be liable to a penalty not exceeding fifty pounds, or to imprisonment with hard labour for any term not exceeding six months.

Annual report.

17. Each inspector shall furnish annually to the Minister for submission to Parliament a report on the operation of the Act.

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### PART III.

*Sanitary arrangements, &c.*

Factories and shops to be kept clean and well ventilated.

18. (i) Every factory and shop shall be kept in a cleanly state and free from effluvia arising from any drain, earth, or water-closet, urinal, or other nuisance.

(ii) A factory or shop, or any portion thereof, shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, and shall contain such amount of cubical space for each person employed, and such amount of ventilation as may be prescribed by regulations, and shall be ventilated in such a manner as to render harmless as far as practicable all the gases, vapours, dust, or impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

(iii) A factory or shop in or in connection with which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

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19. All the inside walls of the rooms of a factory, and all the ceilings and tops of such rooms (whether such walls, ceilings or tops be plastered or not), and all the passages and staircases of a factory shall either be varnished or painted with oil at least once in every period of seven years, or be lime-washed, or washed with some liquid approved by the inspector, at least once in every period of fourteen months (or, in the case of a bakehouse situate in a municipality, once in every period of six months), and shall, if they have been so painted or varnished, be washed with hot water and soap at least once in every period of fourteen months; but the inspector may, if it appear to him necessary, order the walls, ceilings, passages, and staircases of any factory or of any bakehouse situated as aforesaid, to be painted, varnished, lime-washed, or washed more frequently than is herein provided.

If the walls or passages are papered they need not be varnished, Papered walls. painted, or washed, but shall be re-papered at such times as the inspector may direct.

The occupier of a factory shall on demand supply the inspector Evidence of lime-washing, painting, &c. with the dates of the last washing, painting, varnishing, or papering of each portion of the factory.

20. Where it appears to the Minister that in any class of factories, or parts thereof, the provisions of the last preceding section are not required, or are by reason of special circumstances inapplicable, he may, if he thinks fit, make an order granting to such class of factories, or parts thereof, a special exemption from all or any of the requirements in the last preceding section:

Provided that the last preceding section shall, without any such order as aforesaid, be deemed not to apply to blacksmiths', agricultural implement makers', and wheelwrights' shops; or to foundries, flour-mills, saw-mills, flax-mills, freezing-rooms, bone-mills, seed-cleaning mills, tanneries, rope-walks, soap and candle works, smelting works, and brick and tile works or potteries; or to hay and corn and chaff-cutting, corn-crushing, wool-washing, and boiler-making establishments; or to malthouses and breweries; or to cheese and sugar-refining factories, or to sugar-mills or shearing sheds.

21. Where a bakehouse having employed therein one or more persons is situated in any district under this Act—

- (1) no place on the same level with the bakehouse and forming part of the same building shall be used as a sleeping place unless such sleeping place is effectually separated from communication with the bakehouse by a partition extending from the floor to the ceiling, and there is an external glazed window in such sleeping place of at least nine superficial feet in area, of which at least four and a half superficial feet are made so as to open for ventilation;
- (II) no earth, or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse;
- (III) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet;
- (IV) no drain-pipe for carrying off faecal or sewage matter shall have an opening within the bakehouse.

Any person who lets or occupies, or continues to let or Penalty for above. knowingly suffers to be occupied, any place in which there is a breach of the provisions of this section shall be liable to a penalty not exceeding for the first offence twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds.

22. The Minister may, by notice in writing, forbid the occupier of a factory to permit any employees therein to take their meals in any room while work is being carried on therein, and may direct an occupier Meals not to be taken in factories in certain cases.

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occupier to erect or provide a suitable room or place in the factory or in connection therewith for the purpose of a dining or eating room for employees in such factory.

If the occupier fail to comply with such notice within a reasonable time the factory shall be deemed not to be kept in conformity with this Act.

23. If it appear to the inspector that—

Ventilation, &c., in certain cases.

- (a) in a factory where grinding, glazing, or polishing on a wheel, or any other process is carried on whereby dust is generated which is inhaled by the employees to an injurious extent, such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means of ventilation; or
- (b) in a factory in which atmospheric humidity is artificially produced by steaming or other mechanical appliances whereby the health of the employees is or may be injuriously affected, such humidity could be to a great extent lessened by the adoption of a sufficient means of prevention;

Means of prevention. the inspector may serve on the occupier a notice requiring him to provide a fan or other sufficient means of prevention, as the case may be; and if the same be not, within a reasonable time, provided, maintained, and used, the factory shall be deemed not to be kept in conformity with this Act.

Sitting accommodation for females.

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

(ii) The occupier of any factory or shop 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.

Avoidance of infection.

25. If any occupier within the meaning of section fifteen causes or allows wearing apparel to be made, cleaned, or repaired in any building, any inmate of which is suffering from leprosy, small-pox, Asiatic cholera, typhoid fever, scarlet fever, diphtheria, membranous croup, or such other disease as may be declared to be an infectious disease under the provisions of any Public Health Act now or hereafter in force in New South Wales, he shall be liable to a penalty not exceeding fifty pounds, unless he proves that he was not aware of the existence of the illness in the building, and could not reasonably have been expected to become aware of it.

Traversing carriage of self-acting machine.

26. The traversing carriage of any self-acting machine erected after the commencement of this Act shall not be allowed to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is likely to pass, whether in the course of his employment or otherwise.

Liability of employer for injury caused by act or default of person in charge of boiler.

27. In any action brought by an employee in a factory or by his representatives to recover damages from his employer for personal injury caused solely by a boiler explosion arising from the negligent employment

#### PART IV.

##### *The fencing of machinery and protection from fire.*

26. The traversing carriage of any self-acting machine erected after the commencement of this Act shall not be allowed to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is likely to pass, whether in the course of his employment or otherwise.

27. In any action brought by an employee in a factory or by his representatives to recover damages from his employer for personal injury caused solely by a boiler explosion arising from the negligent employment

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employment of an incompetent person to take charge of a boiler used for driving an engine in connection with the factory, the fact of the injury shall be *prima facie* evidence—

- (a) that the person so placed in charge was incompetent;
- (b) that the defendant was guilty of negligence in employing him;
- (c) that the plaintiff was injured through that person's incompetency;

but this presumption shall be deemed to be rebutted by the defendant if he proves that he took reasonable care to satisfy himself of the competency and fitness of such person to take charge of such boiler.

28. The occupier of a factory shall securely fence all dangerous parts of the machinery therein, and with respect to such fencing the following provisions shall have effect:—

- (i) every hoist or teagle and every fly-wheel directly connected with the steam or water or other mechanical power whether in the engine-house or not, and every part of a steam-engine and water wheel shall be securely fenced; and
- (ii) every wheel-race not otherwise secured shall be securely fenced close to the edge of the wheel-race; and
- (iii) every part of the mill gearing shall either be securely fenced or be in such position or of such construction as to be equally safe to every person employed in the factory or workroom as it would be if it were securely fenced; and
- (iv) all fencing shall be constantly maintained in an efficient state while the parts required to be fenced are in motion or use for the purpose of any manufacturing process.

A factory in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

29. If an inspector considers that in a factory any part of the machinery of any kind, moved by steam, water, or other mechanical power, to which the provisions of this Act with respect to the fencing of machinery do not apply is not securely fenced, and is so dangerous as to be likely to cause bodily injury to any person employed in the factory—

- (i) the inspector shall serve on the occupier of the factory a written notice to fence the machinery which he considers dangerous as aforesaid;
- (ii) the occupier within seven days from the receipt of such notice may serve on the inspector a written requisition to refer the matter to arbitration, and, thereupon, the matter shall be referred to arbitration, to be conducted under the regulations;
- (iii) if the arbitrators or their umpire decide that it is unnecessary or impracticable to fence the machinery alleged in the notice to be dangerous, the notice shall be cancelled and the occupier shall not be required to fence in pursuance thereof, and the costs of the reference shall be paid as the expenses of the inspector under this Act;
- (iv) if the occupier does not within the said seven days serve on the inspector a requisition to refer the matter to arbitration, or does not appoint an arbitrator within the time required by the regulations, or if the arbitrators or the umpire decide that it is necessary and practicable to fence the machinery alleged in the notice to be dangerous, the occupier shall securely fence such machinery in accordance with the notice, or with the award of the arbitrators or umpire, if it modifies the notice, and the costs of the reference shall be borne by either or both parties to the arbitration as the arbitrators or the umpire may decide, and any portion of the

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the costs to be borne by the occupier shall be a debt due by him to the inspector, and shall be recoverable in any court of competent jurisdiction;

(v) if the occupier of a factory fails to comply within a reasonable time with the notice or award, or fails to keep the said machinery securely fenced in accordance therewith, or fails to constantly maintain such fencing in an efficient state while the machinery required to be fenced is in motion, the factory shall be deemed not to be kept in conformity with this Act.

**Dangerous machinery.**

30. The Minister may on complaint by an inspector, and on being satisfied that any machine used in a factory is in such a condition that it cannot be used without danger to life or limb, by order prohibit such machine from being used, or (if it is capable of repair or alteration) from being used until it is duly repaired or altered to the Minister's satisfaction on the report of the inspector. Any employer who disobeys such order shall for each offence be liable to a penalty not exceeding ten pounds for every day on which the machine is used in contravention of the order.

**Hoists and lifts to be protected.**

31. (i) In every factory and shop the opening of every hoist-way, elevator, or lift, or well-hole shall at each floor be provided with and protected by good and sufficient trap-doors or self-closing hatches and safety catches, or by such other safeguards as the inspector may approve, which shall be kept closed at all times when they are not in actual use.

**Unsafe or dangerous elevator or lift.**

(ii) If an elevator or lift in a factory or shop used for the conveyance of employees or other persons is considered by an inspector to be unsafe or dangerous to use, he may prohibit the occupier or shopkeeper from using such elevator or lift until it is made safe to the inspector's satisfaction. Should any occupier or shopkeeper use, or permit to be used, such elevator or lift at any time whilst its use is so prohibited, he shall be liable to a penalty of twenty shillings for each time such elevator or lift is so used.

**Restriction on employment of females and males under certain ages.**

32. A male under sixteen years of age or female shall not be allowed to have the care, custody, management, or working of any elevator or lift in any factory or shop.

A male under eighteen years of age or female shall not be allowed—

- (a) to clean such part of the machinery in a factory as is mill gearing while the same is in motion for the purpose of propelling any part of the manufacturing machinery; or
- (b) to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water, or other mechanical power.

An employee allowed to act in contravention of this section shall be deemed to be employed in contravention of this Act.

**Accidents in factories.**

33. Where there occurs in a factory any accident, produced either by machinery moved by steam, water, or other power, or through a vat, pan, or other structure filled with hot liquid or molten metal, or other substance, or by explosion, or by escape of gas, steam, or metal, which either—

- (a) causes loss of life to an employee in the factory; or
- (b) causes bodily injury to any employee in the factory, such as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident, written notice of the accident shall forthwith be sent to the inspector for the district stating the cause of death or 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. The Minister may,

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may, if he thinks fit, obtain a report from a legally qualified medical practitioner, or other competent person, upon the nature, extent, and cause of such death or injury.

34. (i) In every factory erected after the passing of this Act, and in which ten or more persons are employed, and in any existing factory where the Minister by notice in writing may so require, the main inside and outside doors shall open outwards, and all the doors of every room in a factory, in which persons are actually at work, or of passages leading to such rooms, or serving as entrances and exits shall neither be locked, bolted, nor barred during working hours. Doors to open outwardly.

(ii) In every factory there shall be such means of extinguishing fire as the inspector acting under the regulations may direct. Extinguishing fire.

(iii) Every factory three or more storeys in height, in which persons are employed above the second storey, shall be furnished with a certificate from the inspector that the factory is provided with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case. Means of escape from fire.

(iv) In the event of the occupier objecting to carry out any structural alterations in his buildings required by the Minister he may refer the matter to arbitration, as provided in section twenty-nine.

## PART V.

*Ages of persons employed in factories and certificates.*

35. No child shall, unless by special permission of the Minister, be employed in any factory; and no such special permission shall be given to a child under the age of thirteen years. No child to be employed.

36. No male under eighteen years of age and no female shall be employed continuously in a factory for more than five hours without an interval of at least half-an-hour for a meal. Interval for meals in certain cases.

37. No male under sixteen years of age and no female shall be employed in a factory for more than forty-eight hours in any one week: Hours of employment may be extended under certain conditions.

Provided that any such person may be employed overtime in a factory for a period not exceeding three hours in any day beyond the ordinary working hours on not more than thirty days in a year, or by the written permission of the Minister, where he is satisfied that an extension of overtime is required to meet the exigencies of trade, for not more in all than sixty days in a year.

No such person, however, may be employed overtime on more than three consecutive days, and such overtime shall be paid for at the rate of time and a half.

The occupier shall keep a record of all such overtime, and shall note against the name of each person so employed the hours of overtime worked by him or her, and shall furnish a copy of such record to the inspector when called upon to do so.

38. No person mentioned in the First Schedule to this Act shall to the extent mentioned therein, be employed in the factories or parts thereof mentioned in that Schedule, and notice of the prohibition shall be posted by the occupier in every factory to which it applies. Restriction in certain class of employment.

39. (i) A person under the age of sixteen years shall not be employed in such classes of factories as may from time to time be determined by regulation unless the occupier of the factory has obtained a certificate in the prescribed form of the fitness of such person for employment in that factory. Certificate of fitness.

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(ii) A certificate of fitness for the purposes of this Act may be granted by any legally qualified medical practitioner, and shall be to the effect that he is satisfied by the production of a certificate of birth or other sufficient evidence that the person named in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

(iii) The certificate of birth which shall be produced to such legally qualified medical practitioner may be either—

- (a) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the Registration of Births of the birth of the person (and such certificate of birth shall be given by the registrar without fee) ; or
- (b) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

(iv) The occupier shall, when required, produce to an inspector at the factory at which a person under sixteen years of age is employed the certificate of fitness of such person for employment which he is required to obtain under this section.

40. No occupier shall employ a male under sixteen years of age or a female under eighteen years of age—

- (a) in any factory ;
- (b) in the business of but outside any factory,

between the hours of seven o'clock in the evening and six o'clock in the morning, unless in the case of overtime, and subject to the restrictions contained in section thirty-seven :

Provided that where it is proved to the satisfaction of the Minister that the customs or exigencies of the trade carried on in any class of factories or parts thereof, either generally or situate in any particular locality, or other reasons, require or make it desirable that such trade should be exempted from the operation of this section, he may by order grant to such class of factories or parts thereof a special exemption and for such time as he may think fit.

Where person under sixteen incapacitated for working daily.

41. Where an inspector is of opinion that a person under the age of sixteen years is, by disease or bodily infirmity, incapacitated for working daily for the time allowed by law in a factory, he may serve written notice thereof on the occupier, requiring that the employment of such person be discontinued from the period named therein, not being less than one nor more than seven days after the service of such notice ; and the occupier shall not continue after the period named in such notice to employ such person (notwithstanding a certificate of fitness has been previously obtained for such person) unless a legally-qualified medical practitioner has, after the service of the notice, personally examined such person and has certified that such person is not so incapacitated as aforesaid.

Female not to be employed for four weeks after confinement.

42. No female shall be employed during the four weeks immediately after her confinement.

**PART VI.***Shops.*

43. (i) Except as hereinafter provided, a male under sixteen years of age or a female under eighteen years of age shall not work in or in connection with any shop for a longer time than fifty-two hours in any one week, or for a longer time than nine and a half hours in any one day, except on one day in each week, when eleven and a half hours work may be done, but such shall not apply to the occupier of a shop or any member of the occupier's family employed in such shop. Limitation of hours of work in certain cases.

(ii) Any such person may, however, be employed in a shop for a period not exceeding three hours on any day beyond the ordinary working hours, provided that the total number of days in any one year on which in any shop or at any work in connection with a shop any such male or female is so employed shall not exceed fifty-two.

(iii) No male under eighteen years of age and no female shall be employed continuously in a shop for more than five hours without an interval of at least half-an-hour for a meal.

(iv) No male under sixteen years of age and no female under eighteen years of age shall be employed during any day in any shop, or at any work in connection with a shop, if he or she has been previously employed the same day in a factory for eight hours, or in any case for a longer period than will together with the time during which he or she has been so previously employed complete the number of eight hours.

(v) The occupier of a shop in which or in connection with which any contravention of this section occurs shall on conviction be liable to a penalty for the first offence of not more than two pounds, and for every subsequent offence of not less than two pounds or more than five pounds.

Nothing in this section shall apply to shops of the classes included in the Second Schedule to this Act.

44. The Governor may, subject to the provisions of this Act, Governor may make regulations. make regulations under which males under sixteen years of age and females under eighteen years of age may be employed in any shops of the classes included in the Second Schedule to this Act.

**PART VII.***Miscellaneous.*

45. Every breach or contravention of this Act, or the regulations thereunder, shall be reported to the Minister by the inspector in manner prescribed, and no prosecution shall be instituted without the authority of the Minister. No prosecution without authority of Minister.

46. No occupier of a factory or shop shall contract with any employee against any liability under this Act. Occupier not to contract with employees against liability.

47. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. And if the amount of any such penalty, together with the costs (if any) ordered to be paid upon any conviction be not paid within the time mentioned in the order, payment thereof may be enforced by distress and sale of the offender's goods and chattels, and in default of sufficient distress such offender shall be liable to imprisonment for such term as may be provided by this Act or the regulations for the offence of which he

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he was convicted, or if no special term be provided, for any term not exceeding three calendar months, unless such penalty and costs be sooner paid.

Service of order,  
notice, or summons.

48. Any order or notice to be served under this Act, or the regulations thereunder, and any summons to be served in respect of any breach or contravention of the provisions of this Act, or the regulations thereunder, or for the recovery of any penalty, shall be deemed to be duly served upon the occupier of a factory or a shop, if such order, notice, or summons be affixed to the door or some other conspicuous part of the factory or shop.

Penalty for not  
keeping factory or  
shop in conformity  
with this Act.

49. If a factory or shop is not kept in conformity with this Act, or of the regulations thereunder, or if in any factory or shop there is a contravention or breach of any of the provisions of this Act, or of the regulations thereunder, or if the occupier of a factory or shop fails to comply with an order or request made by the Minister or an inspector in pursuance of the Act or regulations, the occupier shall on conviction, if no other penalty is provided, be liable to a penalty not exceeding ten pounds. The magistrate or justices, in addition to or instead of inflicting a penalty, may order certain means to be adopted by the occupier within some time to be named in the order for the purpose of bringing his factory or shop 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, the occupier shall be liable to a penalty not exceeding one pound for every day that such non-compliance continues.

Penalty for employ-  
ing a person contrary  
to Act.

50. Where any person is employed in a factory or shop contrary to the provisions of this Act, the occupier of the factory or shop shall be liable to a penalty not exceeding two pounds, or if the offence was committed during the night, three pounds for each person so employed. A person who is not allowed time for meals as required by this Act, or is in contravention of the provisions of this Act employed in the factory or shop, shall be deemed to be employed contrary to the provisions of this Act.

Parents liable to  
penalty in certain  
cases.

51. The parent or guardian having control of a male person under sixteen years of age, or female person under eighteen years of age shall, if such person is employed in a factory or shop contrary to the provisions of this Act, be liable, on summary conviction before a stipendiary or police magistrate or any two or more justices of the peace, to a penalty not exceeding twenty shillings for each offence, unless it appears that such offence was committed without the consent, connivance, or wilful default of the parent or guardian.

Proof of age of  
employees.

52. Where a male or female employee is in the opinion of the Court apparently of the age alleged by the informant, it shall lie on the defendant to prove that such employee is not of that age.

Penalty for forging  
certificate and false  
declaration.

53. Any person who forges or counterfeits any certificate for the purposes of this Act (for the forgery or counterfeiting of which no other punishment is provided), or who knowingly utters or makes use of any certificate so forged or counterfeited, or who personates any person named in a certificate, shall be liable to imprisonment for a term not exceeding twelve months, with or without hard labour. Any person who wilfully makes a false entry in any book, register, notice, certificate, list, record, or document required by this Act to be kept or served, or who wilfully makes or signs a false declaration or return under this Act, or who knowingly makes use of any false entry or false declaration or return, shall, on summary conviction before a stipendiary or police magistrate, or any two or more justices of the peace, be liable to a penalty not exceeding twenty pounds for each offence or to be imprisoned for a term not exceeding three months, with or without hard labour.

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54. Where the occupier of a factory is charged with an offence against this Act or the regulations thereunder, he shall be entitled upon information duly laid by him to have any other person whom he charges to be the actual offender brought before the magistrate or justices at the time appointed for hearing the charge, and if after the commission of the offence has been proved, the occupier of the factory proves to the satisfaction of the magistrate or justices that he used due diligence to enforce the provisions of the Act and regulations, and that the said other person committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the occupier shall be exempt from any penalty.

55. In addition to the powers already conferred the Governor may, by notice in the *Gazette*, from time to time, make, alter, and repeal regulations for prescribing forms of notices to be given and returns and records to be made under this Act, and the particulars to be set forth therein; and generally for carrying into effect the provisions of this Act; and may impose any penalty not exceeding twenty pounds for the breach of any regulation.

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SCHEDULES.

## FIRST SCHEDULE.

*Factories in which the employment of persons is restricted.*

1. In a part of a 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
 a person under eighteen years shall not be employed.
2. In the part of a factory in which the process of melting or annealing glass is carried on, a male person under sixteen years of age and a female under eighteen years of age shall not be employed.
3. In a factory in which there is carried on—
  - (a) the making or finishing of bricks or tiles, not being ornamental tiles; or
  - (b) the making or finishing of salt—
 a female under eighteen years of age shall not be employed.
4. In a part of a factory in which there is carried on—
  - (a) any dry grinding in the metal trade;
  - (b) the dipping of lucifer matches—
 a person under sixteen years of age shall not be employed.
5. No person under sixteen years of age shall be employed at or in connection with any manufacturing process or machine where continuous casting from molten lead or any combination thereof is carried on in a printing establishment.

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SECOND SCHEDULE.

Chemists' shops.  
 Coffee-houses.  
 Confectioners.  
 Eating-houses.  
 Fish and oyster shops.  
 Fruit and vegetable shops.  
 Restaurants.  
 Booksellers' and news-agents' shops.  
 Tobacconists' shops.  
 Hotels.

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