

FACTORIES, SHOPS AND INDUSTRIES ACT.

Act No. 43, 1962.

An Act to make provisions with respect to the supervision and regulation of factories, shops, and certain other industries; and to the health, safety and welfare of persons employed therein; to restrict the hours on week days and Sundays during which shops may be opened and certain trades may be carried on; to control the advertising and description of goods; to regulate outdoor work in the clothing trades; to repeal the Factories and Shops Act, 1912, and certain other enactments; and for purposes connected therewith. [Assented to, 19th December, 1962.]

**Elizabeth II,
No. 43, 1962**

BE

Factories, Shops and Industries Act.

No. 43, 1962 **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 :—

PART I.**PRELIMINARY.**

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Factories, Shops and Industries Act, 1962".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
into Parts
and
Divisions.

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

PART I.—PRELIMINARY—ss. 1–6.

PART II.—ADMINISTRATION—ss. 7, 8.

**PART III.—HEALTH, SAFETY AND WELFARE IN
FACTORIES, SHOPS AND OTHER INDUSTRIES—ss.
9–73.**

DIVISION 1.—Definitions—s. 9.

**DIVISION 2.—Registration of Factories and Control of
Building Operations—ss. 10–14.**

**DIVISION 3.—Records and Notices (Factories)—ss.
15–18.**

DIVISION 4.—Health (Factories)—ss. 19–26.

DIVISION 5.—Safety (Factories)—ss. 27–47.

**DIVISION 6.—Notification of Accidents and Diseases
occurring in Factories—s. 48.**

**DIVISION 7.—Employment of Women and Young
Persons in Factories—ss. 49–56.**

DIVISION 8.—Welfare (Factories)—ss. 57–60.

**DIVISION 9.—Application of Certain Provisions to
Shops—s. 61.**

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DIVISION 10.—*The Factory and Industrial Welfare Board*—ss. 62–64. No. 43, 1962

DIVISION 11.—*Boilers, Pressure Vessels, Engines and Refrigerating Systems*—s. 65.

DIVISION 12.—*Rural Industries*—ss. 66, 67.

DIVISION 13.—*Regulations and Orders*—ss. 68, 69.

DIVISION 14.—*Duties of Occupiers and Other Persons*—ss. 70–72.

DIVISION 15.—*Powers of Inspectors*—s. 73.

PART IV.—RESTRICTION OF HOURS OF TRADE OR WORK IN CERTAIN INDUSTRIES—ss. 74–102.

DIVISION 1.—*Preliminary*—s. 74.

DIVISION 2.—*Registration of Shops*—ss. 75–77.

DIVISION 3.—*Opening and Closing Hours of Shops and Warehouses*—ss. 78–91.

DIVISION 4.—*Automatic Vending Devices*—ss. 92–94.

DIVISION 5.—*Day Baking*—ss. 95–98.

DIVISION 6.—*Hours of Work in Furniture Factories*—s. 99.

DIVISION 7.—*General*—ss. 100–102.

PART V.—TOBACCO LICENSES—s. 103.

PART VI.—REGULATION OF THE HAIRDRESSING TRADE—ss. 104–114.

DIVISION 1.—*Preliminary*—s. 104.

DIVISION 2.—*Hairdressers Council*—ss. 105, 106.

DIVISION 3.—*Licensing of Hairdressers*—ss. 107–110.

DIVISION 4.—*Teachers of the Trade of Hairdressing*—s. 111.

DIVISION 5.—*General*—ss. 112–114.

PART VII.—OUTDOOR WORK IN THE CLOTHING TRADES—ss. 115–119.

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- PART VIII.—ADVERTISING AND DESCRIPTION OF GOODS
—*ss.* 120-135.
- DIVISION 1.—*Trade Descriptions*—*ss.* 120-131.
- DIVISION 2.—*Marking of Furniture*—*s.* 132.
- DIVISION 3.—*False or Misleading Advertisements*—*s.* 133.
- DIVISION 4.—*General*—*ss.* 134, 135.
- PART IX.—HOME DELIVERIES OF CERTAIN COMMODITIES
—*ss.* 136-140.
- PART X.—REFRIGERATORS, ICE-CHESTS AND ICE-BOXES
—*ss.* 141-143.
- PART XI.—MISCELLANEOUS PROVISIONS—*ss.* 144-152.

SCHEDULES.

Repeals and savings. 3. (1) The several Acts mentioned in Schedule One to this Act are to the extent therein expressed hereby repealed.

(2) All proclamations, notices, exemptions, registrations, renewals of registrations, certificates including certificates of registration and renewals of registration, licenses, permits, authorities, approvals, regulations and orders published, given, granted, issued or made under any enactment hereby repealed and re-enacted, with or without modification by this Act and being in force at the commencement of this Act, shall be and continue in force hereunder, and shall be deemed to have been published, given, granted, issued or made, as the case may be, under this Act.

All applications made and all proceedings and investigations commenced under any enactment hereby repealed, and not determined or completed at the commencement of this Act, may be dealt with, determined and completed as though made or commenced pursuant to this Act.

All persons appointed under any enactment hereby repealed, and holding office at the commencement of this Act, shall remain in office as if this Act had been in force at the time they were appointed and they had been appointed hereunder, and this Act shall apply to them accordingly.

Nothing

Nothing in this subsection shall be construed as extending the term for which any registration, certificate of registration, renewal of registration, certificate of renewal of registration, license, permit or appointment was granted, issued or made under any enactment hereby repealed. No. 43, 1962

(3) References in any Act, by-law, regulation or any other instrument or document whatsoever of the same or different kind or nature to provisions of any enactment hereby repealed which are re-enacted, with or without modification, by this Act shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

4. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

Definitions.
cf. Act No.
39, 1912,
s. 3.

“Bakehouse” means any building or place in which any bread, biscuits, cakes, confectionery, cereal food for human consumption, pastry, sweetmeats, sugar goods, muffins, crumpets or goods of a like kind are made or baked for trade or sale, and includes any place or room used in connection with the bakehouse for storing such goods when made or baked or the ingredients and materials to be used in the manufacture of such goods.

“Chief Inspector” means the person who for the time being holds the office of Chief Inspector of Factories, Shops and Industries or the inspector for the time being acting in the place of such person.

“Contravention” includes, in relation to any provision, term or condition, a failure to comply with, observe or carry out that provision, term or condition, and the word “contravenes” shall be construed accordingly. 1 Edw. 8 &
1 Geo. 6,
c. 67, s. 152.

“Factory” means—

(a) any building or place other than a farm or rural holding used exclusively for agricultural, horticultural or pastoral purposes in which—

(i) four or more persons are engaged directly or indirectly in a manufacturing process; or

(ii)

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- (ii) fewer than four persons are engaged in a manufacturing process and which the Governor has pursuant to this Act declared to be a factory; or
 - (iii) one or more persons are engaged directly or indirectly in—
 - (a) a manufacturing process involving the use, handling, or processing of lead, any alloy of lead, or any compound of lead, or any substance or thing containing lead, any alloy of lead, or any compound of lead; or
 - (b) spray painting; or
 - (iv) mechanical power is used in or in aid of—
 - (a) a manufacturing process, or
 - (b) any of the following processes carried out for trade or sale or gain or as ancillary to any business, that is to say, the sorting or packing of goods or articles, the filling of bottles or other containers, the freezing, chilling or storing in cold storage of goods or articles, or the generation of water power or any other power; or
 - (v) electricity is generated or mechanically transformed; or
- (b) any bakehouse; or
 - (c) any laundry or dyeworks in which four or more persons are engaged or in which mechanical power is used and which is carried on by way of trade or for the purpose of gain or as ancillary to another business, or incidental to the purposes of any public institution; or
 - (d)

(d) any boat-building yard, ship-building yard, dockyard or ship-repairing yard in which any ship or boat is constructed, reconstructed, repaired, refitted, finished or broken up, No. 43, 1962

but, subject to section five of this Act, does not include a ship.

“Furniture” means articles whether new or second-hand of which wood, wicker, pithcane, bamboo, seagrass, reedtex or metal forms a part and such as are usually made or assembled by cabinetmakers, assemblers in the furnishing trades, woodcarvers, woodturners, chair, seat, couch and frame workers, upholsterers, polishers, woodworking machinists, sawyers, mattress and wire mattress makers and wicker, pithcane and seagrass workers; and without limiting the generality of the foregoing definition includes billiard tables, sewing machines, wood bedsteads, clock cases, printers’ cases, pianos, gramophones, wireless and television cabinets, incubators, refrigerators, ice chests, wood mantels, and other articles of like description.

“Harbour” includes harbours properly so called, whether natural or artificial, estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter, or ship or unship goods or passengers. 57 & 58 Vic. c. 60, s. 742.

“Inspector” means an inspector appointed pursuant to this Act and includes any member of the police force who is for the time being authorised in writing by the Minister to exercise and perform all the powers, authorities, duties and functions of an inspector.

“Maintained” means maintained in good order, condition and repair and in an efficient state and, in the case of any mechanical equipment or device, in good and efficient working order.

“Manufacturing process” means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up, or adapting
of

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of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business, and includes any handicraft or process declared by the Governor, pursuant to this Act, to be a manufacturing process.

“Mechanical power” means power generated by water, steam, gas, oil, electricity, or any power other than manual power.

“Motor spirit” means any liquid or substance used or adapted or intended to be used for the propulsion of motor vehicles.

“Occupier” means, in relation to a factory or shop, the person, partnership, association, or corporation employing persons in the factory or shop, or occupying the factory or shop, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of the factory or shop and the owner or person deemed to be the occupier pursuant to subsection two of this section.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made or deemed to have been made under this Act.

Act No. 1,
1901, s. 3.

“Ship” includes every description of vessel used in navigation not propelled by oars.

“Under Secretary” means the Under Secretary of the Department of Labour and Industry or the person for the time being acting as such.

cf. Act No.
39, 1912, ss.
3, 6 (11)
(12), 29;
1 Edw. 8 &
1 Geo. 6,
c. 67, s. 151.

(2) For the purposes of the definition of “factory” in subsection one of this section—

(a) a place shall not be excluded from such definition by reason only that the place is in the open air;

(b)

- (b) all those parts of the close, curtilage or precincts of a factory over which the occupier has the right of access or control shall be deemed to be part of the factory: Provided that where a place within such close, curtilage or precincts is solely used otherwise than for or in connection with the processes carried on in the factory, that place shall not be deemed to form part of the factory but shall, if otherwise it would be a factory, be deemed to be a separate factory; No. 43, 1962
- (c) a part of a factory may, on application by the occupier thereof and with the approval in writing of the Under Secretary, be taken to be a separate factory, and two or more factories may, on application by the occupiers thereof and with the like approval, be taken to be a single factory;
- (d) where the Under Secretary, being satisfied that a part of a factory is occupied as a factory by a person other than the occupier of the remaining parts of the factory, by notice in writing to such occupier and other person so directs, the said part shall be deemed to be a separate factory;
- (e) where persons employed in any factory are lodged in any premises attached to such factory, such premises shall be deemed to be part of the factory;
- (f) a building or place occupied by a municipal, shire, or county council or other public authority and which, if a handicraft or process carried on therein were carried on for trade or sale or gain or as ancillary to a business, would be within such definition, shall be deemed to be within such definition.

For the purposes of any repairs, renovations, replacements, alterations or additions required by or under this Act to be made to a building forming part of a factory or shop or within which a factory or shop is situated, the Minister may, by notice in or to the effect of the form prescribed, notify the owner of
the

No. 43, 1962 the factory or shop, or the person receiving the rent for the same, whether on his own account or on account of any other person, that he will regard him for such special purposes as the occupier of the same and thereupon the said owner or person shall, for the said purposes, be deemed to be the occupier of the factory or shop.

Extension of
this Act and
exemptions
therefrom.
cf. Act No.
39, 1912,
s. 4;
1 Edw. 8
& 1 Geo. 6,
c. 67, s. 106.

5. (1) The Governor may, by proclamation published in the Gazette, declare—

- (a) a building or place specified in the proclamation in which fewer than four persons are engaged directly or indirectly in a manufacturing process so specified, to be a factory;
- (b) all buildings and places in which fewer than four persons are engaged directly or indirectly in a manufacturing process so specified, to be factories;
- (c) any handicraft or process so specified, to be a manufacturing process.

(2) The Governor may, by proclamation as aforesaid, extend such of the provisions of this Act or of the regulations, being provisions in respect of factories, as are specified in the proclamation to—

- (a) all work (not being work done by the master or crew of a ship or done on board a ship during a trial run) carried out in a harbour or wet dock in constructing, reconstructing, repairing, refitting, painting, finishing or breaking up a ship or in scaling, scurving or cleaning boilers (including combustion chambers and smoke boxes) in a ship, or in cleaning oil-fuel tanks or bilges in a ship;
- (b) all premises in which motor spirit is stored, or any class of such premises specified in the proclamation,

and for the purpose of such provisions so specified all ships in or upon which the said work is carried out, or such premises or class of premises, as the case may be, shall be deemed to be factories, and in the case of a ship any person undertaking the said work shall be deemed to be the occupier of the factory.

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(3) The Governor may, by proclamation as aforesaid, ^{No. 43, 1962} exempt, either wholly or in part, any factory or class of factories, or shop or class of shops, from the operation of Part III of this Act, and such factory or class of factories, or shop or class of shops, shall thereupon be exempted as aforesaid.

(4) The Governor may, by proclamation as aforesaid, revoke, vary, or alter any proclamation published under the authority of this Act.

(5) Any proclamation made under this section shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication, or from a later date specified in the proclamation;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the proclamation has been laid before such House disallowing any proclamation or part thereof, the proclamation or part shall thereupon cease to have effect.

6. (1) This Act shall be read and construed subject to ^{Construc-} the Commonwealth of Australia Constitution Act, and so as ^{tion.} not to exceed the legislative power of the State, to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected.

(2) Nothing in this Act shall affect the operation of ^{Certain Acts} the Scaffolding and Lifts Act, 1912, the Rural Workers ^{not to be} Accommodation Act, 1926, the Textile Products Labelling ^{affected.} Act, 1954, or any Act amending or replacing any such Act.

PART

PART II.

ADMINISTRATION.

Inspectors. 7. (1) The Governor may appoint inspectors for carrying
cf. Act No. into effect the provisions of this Act.
39, 1912,
ss. 5, 11-12.

One of such inspectors shall be appointed Chief Inspector of Factories, Shops and Industries. The person who immediately before the commencement of this Act was the Chief Inspector of Factories and Shops shall be deemed to have been appointed Chief Inspector under this Act.

(2) A member of the police force may, if so authorised in writing by the Minister, exercise and perform all the powers, authorities, duties and functions of an inspector.

Any such authority may—

- (a) be for a limited period or without limitation of time;
- (b) be revoked at any time by the Minister;
- (c) confer the authority either on the person named therein or on the member of the police force by the description of his office only, and in the latter case all persons who during the currency of the authority hold the said office shall be deemed to be authorised in terms of the authority.

(3) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any factory or shop, or any other premises or place which he is empowered by this Act to enter, shall, if required, produce such certificate to the occupier.

(4) Notwithstanding any other provision of this Act, no inspector shall have any authority under this Act to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade is carried on therein.

(5) Every person who wilfully delays or obstructs an inspector in the exercise of any power conferred on him by this Act, or who fails to comply with a requisition of an inspector made under any such power as aforesaid, or to produce to an inspector any book, register, record, certificate, license, notice, list, or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents

prevents any person from appearing before or being examined by an inspector, or attempts so to conceal or prevent any person, shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds: Provided that no person shall be required to answer any question or give any evidence incriminating himself. No. 43, 1962

8. The Under Secretary shall furnish annually to the Minister for submission to Parliament a report on the operation of Part III of this Act. Annual report.
cf. Act No. 39, 1912,
s. 19.

PART III.

HEALTH, SAFETY AND WELFARE IN FACTORIES, SHOPS AND OTHER INDUSTRIES.

DIVISION 1.—*Definitions.*

9. (1) In this Part of this Act, unless the context or subject matter otherwise indicates or requires— Definitions.
cf. *Ibid.*
ss. 3, 34,
36c, 62.

“Boiler” means—

- (a) any vessel in which for any purpose steam is generated under pressure greater than atmospheric pressure, or
- (b) any vessel in which for any purpose water is heated under pressure greater than atmospheric pressure to a temperature exceeding two hundred and ten degrees Fahrenheit without the generation of steam,

and includes any economiser used to heat water being fed to any such vessel, and any superheater used for heating steam and includes feed, blow down and steam distribution pipe lines, fittings and connections, but does not include a boiler in any ship or a boiler used in or about a mine.

“Child” means any person under the school leaving age.
“Employee”

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“Employee” means any person in the employment of an occupier. Any person, other than the person occupying the factory or shop or employing persons therein, 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.

“Engine” means—

- (a) a piece of mechanism used to convert heat or some other form of energy into mechanical work; or
- (b) a machine for the development or utilisation of power from some source of energy such as coal, gas, oil or compressed air; or
- (c) refrigerating machinery in which the volumetric displacement of the compressor or compressors exceeds :—
 - (i) for a system using carbon dioxide as a refrigerant twelve cubic feet per minute;
 - (ii) for a system using ammonia as a refrigerant forty-two and one-half cubic feet per minute;
 - (iii) for a system using freon as a refrigerant eighty-four cubic feet per minute;
 - (iv) for a system using carrene as a refrigerant one hundred and two cubic feet per minute;
 - (v) for a system using as a refrigerant, gases other than carbon dioxide, ammonia, freon or carrene, such volumetric displacement of the compressor or compressors as may be prescribed,

but does not include—

- (a) any engine used on a ship; or

(b)

- (b) any engine in or about a mine; or No. 43, 1962
- (c) any electric motor (other than an electrically propelled locomotive, traction engine or road roller), electric generator, electric convertor, electric transformer or electric rectifier; or
- (d) any engine used exclusively for domestic purposes in a private dwelling-house; or
- (e) any engine (except a locomotive, traction engine or road roller) of any self-propelled vehicle used for the carriage of passengers or goods; or
- (f) any engine used in rural industries; or
- (g) any stationary internal combustion engine or engines having an area of cylinder or a combined area of cylinders not exceeding one hundred and fourteen square inches; or
- (h) any crane, hoist or lift, as defined by the Scaffolding and Lifts Act, 1912, as amended by subsequent Acts.

“Engine driver” means a person employed or acting in the capacity of driver or attendant in charge of an engine, whether the same is in a factory or not.

“Industry” means any craft, occupation or calling (other than mining) in which persons of either sex are employed for hire or reward in any premises or place not being a factory, and includes a section or division of an industry and a particular business, establishment or undertaking within an industry but does not include rural industry.

“Maximum allowable safe working pressure” in relation to any boiler or pressure vessel means the maximum allowable safe working pressure specified in the certificate issued pursuant to the regulations and for the time being applicable to that boiler or pressure vessel.

“Pressure

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“Pressure vessel” means any vessel subjected to pressure (including pressure due to a static head) by liquids, vapours or air or other gases but does not include—

- (a) a boiler; or
- (b) a vessel attached to or forming part of a domestic water supply and which contains—
 - (i) cold water, only, under pressure, or
 - (ii) atmospheric air the compression of which serves only as a cushion; or
- (c) a vessel containing a liquid only at a temperature not exceeding two hundred and ten degrees Fahrenheit wherein the pressure is due solely to the height of a column of liquid above the vessel; or
- (d) a pressure vessel on any ship or used in or about a mine.

1 Edw. 8 &
1 Geo. 6,
c. 67, s. 152.

“Prime mover” means every engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel, or other source.

“Refrigerating system” means a combination of interconnected refrigerant containing parts constituting a closed refrigerant circuit in which a refrigerant is circulated for the purpose of extracting heat, but does not include a refrigerating system in any ship or a refrigerating system used in or about a mine.

cf. Act No.
2, 1940,
s. 131.

“Rural industries” means industries in which persons are engaged for hire or reward and whether as employees or otherwise—

- (a) upon farms, orchards, vineyards, or agricultural or pastoral holdings in connection with dairying, poultry farming, or bee farming, or the sowing, raising, harvesting, or treating of grain, fodder, fruit, or other farm produce, or the management, rearing, or grazing of horses, cattle,

cattle, sheep, or other live stock, or the shearing or crutching of sheep, or the classing, scouring, sorting, or pressing of wool, upon any farm or station, or at other farm or station work; or

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- (b) in or in connection with the formation, tending, protection, or regeneration of forests; or
- (c) in or in connection with timber-getting or the transport or storing of timber; or
- (d) in flower or vegetable market gardens or nurseries; or
- (e) at clearing, fencing, trenching, draining, or otherwise preparing land for any of the abovementioned purposes.

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

“Transmission machinery” means every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance.

¹ Edw. 8 &
¹ Geo. 6,
c. 67, s. 152.

“Week” means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

“Welfare” includes the provision of facilities for housing, rest, recreation, meals, changing and protection of clothing, and washing.

“White phosphorus” means the substance usually known as white or yellow phosphorus.

(2) A reference in this Part of this Act to the “school leaving age” shall be construed in accordance with subsection four of section 2A of the Public Instruction (Amendment) Act, 1916, as amended by subsequent Acts.

DIVISION

No. 43, 1962 DIVISION 2.—*Registration of Factories and Control of Building Operations.*

Definitions.

10. In this Division of this Part of this Act—

“Certificate” means certificate of registration of a factory issued or deemed to have been issued under this Act.

“Permit” means permit authorising the use of premises as a factory, issued or deemed to have been issued under this Act.

“Registered factory” means a factory in respect of which a certificate or permit is for the time being in force.

“Unregistered factory” means a factory which is not a registered factory or which by virtue of any provision of this Act is deemed to be an unregistered factory.

Registration
of factories.
cf. Act No.
39, 1912,
s. 6.

11. (1) Any person who is an occupier of an unregistered factory shall be guilty of an offence against this Act.

(2) Application for the registration of any premises as a factory shall be made to the Under Secretary in the form prescribed and the application shall be accompanied by a plan of such premises showing such particulars as may be prescribed.

(3) The Under Secretary on receipt of such application may—

(a) register the premises as a factory and issue to the applicant a certificate of registration of the factory;

(b) issue to the applicant a permit authorising the use of the premises as a factory for a period to be named in the permit, pending the carrying out of any requirements which the Under Secretary deems necessary to make the premises suitable for use as a factory and for the purposes for which the factory is to be used;

(c) refuse to register the premises as a factory.

A certificate or permit may be issued either unconditionally or subject to conditions specified therein. Any such conditions may be varied or revoked.

(4)

(4) The Under Secretary in exercising the powers conferred on him by subsection three of this section shall take into consideration—

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—

- (a) the provisions of this Act;
- (b) the provisions of any Act, other than this Act, affecting or relating to the user of the premises;
- (c) any other matters relevant to the suitability of the premises for use as a factory and the purposes for which the factory is to be used.

(5) If the Under Secretary decides to register or to issue a permit to occupy the premises as a factory, he shall, on payment of the prescribed registration fee by the occupier or applicant, issue to the occupier or applicant a certificate or a permit, as the case may be, in the form prescribed, specifying the name of the occupier and the address and situation of the factory, and the nature of the work to be carried on therein.

(6) Subject to the provisions of this Act, a certificate shall be in force from the date of issue of the certificate until the expiration of a period of one year from the last day of the month in which it was issued.

(7) A certificate which has not been cancelled and is not for the time being suspended may, on application as prescribed and on payment of the prescribed fee, be renewed and on each renewal shall, subject to the provisions of this Act, be in force for a further period of one year : Provided that the Under Secretary may refuse or hold over the renewal of a certificate of registration of a factory pending compliance by the occupier of the factory with a notice or order given or made in respect of the factory under section twelve of this Act.

(8) (a) The prescribed fee payable in respect of the issue of a certificate or permit or renewal of a certificate shall be the appropriate amount specified in Schedule Two to this Act.

(b)

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(b) In any case where during the currency of a certificate of registration of a factory the number of persons employed in the factory is so increased that, if the increased number of persons had been so employed immediately before the last renewal of the certificate, or, if the certificate has not been renewed, the issue of the certificate, a larger fee would have been payable in respect of the renewal or issue of the certificate, as the case may be, the occupier of the factory shall within twenty-one days after the date of the increase give written notice of the increase to the Under Secretary, and pay to him an amount equal to the difference between—

- (i) the prescribed fee paid in respect of the last renewal of the certificate, or if the certificate has not been renewed, in respect of its issue; and
- (ii) the prescribed fee which would have been payable if the number of persons so employed, as so increased, had been so employed at the time of the last renewal of the certificate, or if the certificate has not been renewed, at the time of its issue, as the case may be :

Provided that where the number of persons so employed is so increased after the expiration of one half of the period for which the certificate was last renewed, or if it has not been renewed, was issued, the amount to be paid to the Under Secretary under the provisions of this paragraph shall be reduced by one half.

If the occupier of the factory fails to give notice as required by this paragraph or to pay the amount required by this paragraph to be paid by him the factory shall be deemed to be an unregistered factory.

(9) Where the Under Secretary is satisfied that there has been a contravention of conditions subject to which a certificate or permit was issued in respect of any factory he may, by giving not less than one month's notice in writing to the occupier of the factory, cancel such certificate or permit and on the expiration of such notice the certificate or permit shall, subject to subsection ten of this section, cease to be in force.

(10)

(10) When the Under Secretary refuses to register premises as a factory or registers premises as a factory subject to conditions, or refuses or holds over the renewal of registration of premises as a factory, or cancels a certificate of registration or permit in respect of a factory, he shall upon the written request of the applicant for registration or renewal or the occupier, as the case may be, state in writing the grounds of his decision. No. 43, 1962

The applicant or occupier may appeal against any such decision to the Minister, whose determination shall be final. Where the appeal is against a decision in respect of a registered factory and is made within twenty-one days after service on the occupier of notice of such decision, then pending the determination of the appeal the factory shall not, by reason only of such decision, be or be deemed to be an unregistered factory.

(11) Where, through fire, tempest, flood or other calamity, an occupier of a registered factory is unable to carry on his factory, the Under Secretary may issue a permit, without payment of further fee, authorising the occupier to use other specified premises as a factory for a period to be named in the permit.

(12) The Under Secretary may from time to time extend the period of a permit.

(13) (a) Where any persons other than the persons named in a certificate or permit as the occupiers of a registered factory become the occupiers thereof the persons so named in the certificate or permit and the persons becoming the occupiers of such factory shall serve on the Under Secretary a written notice of the change of occupancy within fourteen days after such change and if no such notice is served as aforesaid by the persons named in such certificate or permit as the occupiers of such factory or the persons becoming the occupiers thereof the persons named in such certificate or permit shall be deemed to be the occupiers of such factory and shall be subject to all the provisions of this Act relating to the same.

(b)

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(b) Where any person named in a certificate or permit as the occupier of a registered factory changes his name he shall serve on the Under Secretary a written notice of such change within fourteen days after such change and if he fails to do so such factory shall be deemed to be an unregistered factory.

(c) Any person who fails to serve notice in accordance with paragraph (a) or (b) of this subsection shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

(14) Where in any registered factory there is a change in the nature of the work carried on for which the premises have been registered, or where there is any change in the boundaries or limits of the area constituting a registered factory, the occupier of the factory shall within fourteen days of the change give written notice thereof to the Under Secretary and if the occupier fails to do so the factory shall be deemed to be an unregistered factory.

(15) Any fee payable by an occupier in respect of the registration or the renewal of the registration of a factory may be sued for and recovered as a debt by and in the name of the Minister by any person authorised by him.

In any proceedings for the recovery of such a fee, the production of an authority purporting to be signed by the Minister shall, without proof of the signature, be prima facie evidence of the appointment of the person named therein to sue and that his authority to sue remains in force.

(16) The registration as a factory of any bakehouse may be suspended by the Minister for such period as he may think fit upon being satisfied that the occupier of or any person employed in the bakehouse has been convicted of an offence under Part IV of this Act for refusing or wilfully delaying the admission of an inspector to such bakehouse.

During the period of any such suspension such bakehouse shall be deemed to be an unregistered factory.

12. (1) If, in the opinion of an inspector, any registered factory is by reason of—

- (a) any change in the nature of the work carried on for which the premises have been registered, or
- (b) any change in the boundaries or limits of the area constituting the factory, or
- (c) any fact or circumstance not present when the factory was registered,

No. 43, 1962
 Notification by inspector of defects in factory.
 cf. Act No. 39, 1912, s. 8.

unfit for occupation as a factory, he shall report accordingly to the Chief Inspector who may by notice in writing direct the occupier of the factory to comply with such requirements specified in the notice as the inspector may deem necessary to render the factory fit for such occupation.

(2) (a) If the occupier is dissatisfied with the requirements of the said notice, he may, within seven days of service of the notice, appeal to the Minister in writing in the form prescribed, stating what amendments in the said requirements he desires should be made.

(b) The Minister may forthwith determine the appeal or refer the matter for investigation and report by a person deemed by the Minister to be competent for such purpose.

(c) The Minister shall make such orders as he deems just and necessary, and his decision shall be final.

(3) If, in the opinion of an inspector, any registered factory is for any reason mentioned in subsection one of this section unfit for occupation as a factory and no requirements that may be specified will, by reason of structural difficulties, sanitary defects, or otherwise, render the factory fit for occupation as such, he shall so report to the Minister, who may thereupon—

- (a) forthwith determine the matter or refer it for investigation and report by a person deemed by the Minister to be competent for such purpose;

(b)

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- (b) make an order forbidding the use of the premises as a factory, or requiring the occupier to comply with such requirements specified in the order as the Minister may deem necessary to render the factory fit for occupation as such.

(4) Where pursuant to this section the Minister makes an order forbidding the use of premises as a factory the factory shall, on service of such order on the occupier, be deemed to be an unregistered factory.

(5) Where requirements have been specified by an inspector or the Minister pursuant to this section in respect of a factory and the occupier of the factory has failed to comply with such requirements—

- (a) if the notice or order has specified a time within which the requirements shall be complied with, within such time;
- (b) in every other case, within three months after the service of the notice or order on the occupier,

the factory shall be deemed to be an unregistered factory.

(6) Where the Under Secretary is satisfied that a factory is deemed by virtue of subsection four or five of this section to be an unregistered factory he shall cancel the certificate or permit issued in respect of that factory.

Factories not to be erected, altered or added to without approval. cf. Act No. 39, 1912, s. 7A.

13. (1) No person shall commence or cause to be commenced the erection of any building intended for use as a factory or carry out or cause to be carried out any structural alterations or additions to any premises of a registered factory or intended for use as a factory unless the approval of the Under Secretary is first obtained.

(2)

(2) Application for the approval of the Under Secretary shall— No. 43, 1962

- (a) be made by the builder or owner or his architect in the prescribed manner;
- (b) be accompanied by two copies of the plans and specifications of the building, structural alterations or additions, one copy of which shall be retained by the Under Secretary.

(3) The Under Secretary shall consider such application and the plans and specifications accompanying it and may approve, or approve subject to conditions, or disapprove thereof.

(4) Where any application under this section is approved subject to conditions, or disapproved, the applicant may if dissatisfied with such decision appeal in the manner prescribed to the Minister. The decision of the Minister shall be final.

(5) Every building intended for use as a factory and every structural alteration or addition to premises registered as a factory or intended for use as a factory or in respect of which a permit is in force for the time being shall be erected and carried out to the satisfaction of the Under Secretary in conformity with the application, plans and specifications approved pursuant to this section for the erection of such building or the carrying out of such structural alterations or additions.

(6) If any person does or causes to be done any work in connection with the erection of a building intended for use as a factory or carries out or causes to be carried out any structural alterations or additions to any premises registered as a factory or intended for use as a factory or in respect of which a permit is in force for the time being without the approval required by this section or not in conformity with such approval, he shall be guilty of an offence against this Act.

Factories, Shops and Industries Act.

No. 43, 1962

Service of
notice by
Under
Secretary
in respect of
certain
buildings,
alterations,
etc.

cf. Act No.
39, 1912,
s. 7B.

14. (1) Where the Under Secretary is satisfied that—

- (a) any person has commenced or caused to be commenced or is about to commence or to cause to be commenced the erection of any building, or structural alterations or additions to any building; and
- (b) any industry is being or is intended to be carried on in that building; and
- (c) such building is not a factory nor intended for use as a factory,

he may by notice in writing served on such person require an application to be made to the Under Secretary for his approval of such erection, alterations or additions, as the case may be, and of the plans and specifications thereof.

(2) Application for the approval of the Under Secretary shall—

- (a) be made in the prescribed manner by the person on whom the notice was served;
- (b) be accompanied by two copies of the plans and specifications of the building, structural alterations or additions, as the case may be, one copy of which shall be retained by the Under Secretary.

(3) The Under Secretary shall consider such application and the plans and specifications accompanying it and may approve, or approve subject to conditions, or disapprove thereof.

(4) Where any application under this section is approved subject to conditions, or disapproved, the applicant may if dissatisfied with such decision appeal in the manner prescribed to the Minister. The decision of the Minister shall be final.

(5) Where any application under this section has been approved, the erection of the building or structural alterations or additions to any building to which such approval relates shall be carried out to the satisfaction of the Under Secretary in conformity with the plans and specifications thereof approved by him.

(6)

(6) Any person who after a notice has been served on him pursuant to this section in relation to the erection of any building or structural alterations or additions to any building does any work in connection with such erection, structural alterations or additions without the approval required by this section or not in conformity with such approval shall be guilty of an offence against this Act.

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(7) Nothing in this section shall apply to any building which is intended to be used primarily as a private dwelling-house.

DIVISION 3.—*Records and Notices (Factories).*

15. (1) The occupier of every factory shall keep or cause to be kept in the factory a register in the prescribed form, called the general register, and there shall be entered in or attached to that register—

Registers
and records.
cf. 1 Edw. 8
& 1 Geo. 6,
c. 67, s. 116;
Act No. 39,
1912, ss.
14, 16.

- (a) the prescribed particulars as to the persons under twenty-one years of age employed in the factory;
- (b) the prescribed particulars as to the washing, white-washing or colour washing, painting or varnishing of the factory;
- (c) the prescribed particulars as to every accident and case of disease occurring in the factory and of which notice is by this Act required to be sent to the Under Secretary; and
- (d) other prescribed matters.

The general register may, unless the regulations otherwise prescribe, be in two or more separate volumes or parts.

(2) The occupier of a factory shall keep or cause to be kept in the factory a record of—

- (a) the names of all employees in the factory and of the ages of all such employees as are under twenty-one years of age;

(b)

Factories, Shops and Industries Act.

No. 43, 1962

- (b) such other particulars in relation to employees in the factory as may be prescribed;
- (c) where he employs persons in a manufacturing process in the business of the factory outside the factory,—
 - (i) the name of every person so employed;
 - (ii) the place where each such person is so employed;
 - (iii) the rate of payment in each instance; and
 - (iv) the number of articles and description of work in respect of which each payment is made.

Such record may be incorporated with the general register or with any time and wages record required by any Act other than this Act to be kept in the factory.

(3) The occupier of a factory shall—

- (a) retain in the factory for a period of two years from the date of the last entry, or for such other period as may be prescribed in relation to the class or description of factories to which the factory belongs, the general register and all records which he is required by this section to keep in respect of the factory;
- (b) whenever so required by an inspector, send to the inspector such extracts from or information contained in any of the said registers and records as the inspector may require.

(4) An occupier of a factory who fails to comply with any provision of this section shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

16. (1) The occupier of a factory shall cause to be affixed and maintained in the factory at the principal entrance by which employees enter and in such characters and in such positions as to be conveniently read by employees in the factory—

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 Documents
 to be
 exhibited.
 cf. Act No.
 39, 1912,
 s. 14.

- (a) a notice of the address and telephone number of the office of an inspector normally carrying out duties under this Act in the area in which the factory is situated;
- (b) a copy of this Act and of the regulations made or deemed to have been made under this Part of this Act, or such copies or summaries of the provisions of this Act or of the said regulations as may, in relation to the class or description of factories to which the factory belongs, be directed by the Chief Inspector to be so affixed and maintained; and
- (c) a notice setting out the usual working hours of the factory :

Provided that an inspector may by notice in writing to the occupier direct that all or any of such documents shall be affixed and maintained in such other parts of the factory, either in addition to or in substitution for the said principal entrance, as may be specified in the notice, and the occupier shall comply with such notice.

(2) An occupier of a factory who fails to comply with subsection one of this section or any direction thereunder shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

17. All registers, records, extracts, information, documents and notices required by this Division of this Part of this Act to be kept, affixed, maintained, sent or given shall be in the English language.

18.

No. 43, 1962 **18.** Any inspector who divulges the contents of any register or record required by this Division of this Part of this Act to be kept or makes use of his knowledge of the contents thereof, except to the Minister or for the purposes of this Part of this Act or for enforcing the provisions hereof, or for statistical purposes in connection with a department of the Public Service, shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred pounds, or to imprisonment for any term not exceeding six months.

Inspector
not to
divulge
contents of
registers,
etc.
cf. Act No.
39, 1912,
s. 18.

DIVISION 4.—*Health (Factories).*

19. (1) Every factory shall be kept in a clean state and free from effluvia arising from any drain, sanitary convenience, or nuisance, and without prejudice to the foregoing provisions of this subsection the following requirements shall be complied with in respect of every factory :—

Cleanliness
and
painting of
factories.
cf. 1 Edw. 8
& 1 Geo. 6,
c. 67, s. 1.

- (a) accumulations of dirt, waste and refuse shall be removed daily from the floors and benches of work-rooms, and from all stairways and passages;
- (b) receptacles of fire-resistant material shall be provided in every factory and all waste and refuse shall be placed in those receptacles, which shall be emptied at least once each day;
- (c) receptacles used for liquid waste or refuse, or for material likely to decay or have an offensive odour, shall be of metal or glazed earthenware, or be lined with metal, and shall not leak. They shall be kept covered and shall be emptied as often as is necessary to avoid offensiveness, and shall be cleaned and disinfected as often as is necessary to keep them in a sanitary condition;
- (d) the floor of every workroom shall be cleaned at least once in every week by washing, or, if it is effective and suitable, by sweeping or other method;

(e)

(e) the cleaning of floors or the removal of dirt, waste or refuse shall so far as is practicable be done outside the working hours of the factory, and where such cleaning or removal is done inside those hours it shall be done in such a manner as will avoid the raising of dust or odours;

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(f) all inside walls and partitions, and all ceilings or tops of rooms, and all walls, sides and tops of passages shall—

- (i) where they have been painted with oil paint or varnished, be repainted or revarnished at least once in every period of seven years;
- (ii) where they have been painted with at least two coats of washable water paint, be repainted with at least one coat of such paint at least once in every period of three years;
- (iii) where they have been painted or varnished as aforesaid, or have not been painted but have a smooth impervious surface, be at least once in every period of fourteen months washed with hot water and soap or other suitable detergent or cleaned by such other method as may be approved by an inspector;
- (iv) in all other cases be kept whitewashed or colour washed, and the whitewashing or colour washing shall be repeated at least once in every period of fourteen months.

(2) Notwithstanding the provisions of subsection one of this section—

(a) the regulations may, in respect of any class of factories, require the washing, cleaning, painting, varnishing, whitewashing or colour washing of the factory or any prescribed parts thereof at intervals more frequent than those prescribed by that subsection, and may exempt classes of factories from any of the provisions of that subsection;

(b)

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(b) an inspector may, if it appears to him necessary, by notice in writing served on the occupier of a factory direct that the factory or any specified part thereof shall be washed, cleaned, painted, varnished, white-washed or colour washed in the manner provided by that subsection within a period specified in the notice, and the occupier shall comply with that notice.

(3) Where in respect of any factory there is a contravention of any requirement of this section or any regulation thereunder or of any notice served thereunder the factory shall, while such failure continues, be deemed not to be kept in conformity with this Part of this Act.

(4) The occupier of a factory shall on demand inform an inspector of the dates of the last washing, cleaning, painting, varnishing, whitewashing or colour washing of each portion of the factory and shall if he fails to do so be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

Sanitary conveniences.
cf. 1 Edw. 8 & 1 Geo. 6, c. 67, s. 7.

20. (1) Sufficient and suitable sanitary conveniences for the persons employed in a factory shall be provided, maintained and kept clean, and effective provision shall be made for lighting the conveniences and, where persons of both sexes are or are intended to be employed (except in the case of factories where the only persons employed are members of the same family dwelling there), such conveniences shall afford proper separate accommodation for persons of each sex.

(2) The regulations may prescribe in respect of factories or any class or description of factories what is sufficient and suitable provision for the purposes of this section.

21.

21. Every occupier of a factory who causes or permits wearing apparel to be made, cleaned, or repaired in, or issues any materials from, any building, whether a factory or not, in which any person is suffering from a disease declared by or under any law relating to public health to be an infectious disease, shall be guilty of an offence against this Act, unless he proves that he was not aware of the existence of the disease in the building and could not reasonably have been expected to have become aware of it.

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Avoidance
of infec-
tion.Act No. 39,
1912, s. 28.

22. (1) Subject to the regulations—

Floors,
roofs and
ceilings.

- (a) where the Chief Inspector by notice in writing served on the occupier of a factory so directs, the floor of the factory or any specified part thereof shall be of such material as is specified in the notice. The material so specified shall be concrete, bricks, tiles laid in cement, asphalt, other impervious material, wood or such other material as in the opinion of the Chief Inspector is suited to the requirements of the handicraft or process carried on in the factory or part of the factory, as the case may be ;
- (b) where in any factory employees while working stand on a floor of brick, concrete, metal, stone or other stone-like material, or other prescribed material, an inspector may by notice in writing served on the occupier of the factory direct that the floor of the working area be covered or surfaced with timber, coir or other matting, rubber or bituminous sheeting or other non-conducting material.

(2) (a) Where a wet process is carried on in a factory the floor of every part of the factory where persons are employed in such process shall be of solid material having a smooth and impervious surface, and shall be so graded and drained that liquids can easily run off. A platform, mat or other dry standing place shall be provided at every place on such floor where an employee stands while working.

(b)

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—

(b) Except in a case to which paragraph (a) of this subsection applies, the floors of all those parts of a factory wherein persons are employed shall, subject to section nineteen of this Act, at all times be kept dry.

(3) Subject to the regulations, where the Chief Inspector by notice in writing served on the occupier of a factory so directs, ceilings of such material as may be specified in the notice shall be provided and maintained in such part or parts of the factory as may be so specified.

(4) All floors and ceilings of factories shall at all times be maintained in good order, condition and repair.

(5) The regulations may prescribe the materials to be used in, and the method of construction of floors, roofs and ceilings of factories or any class of factories and may exempt any class of factories from any of the provisions of subsection two of this section.

(6) A factory in which there is a contravention of this section or of any regulation thereunder or any notice served pursuant to this section shall be deemed not to be kept in conformity with this Part of this Act.

Air space,
temperature
and ven-
tilation.

23. (1) (a) No room or part of a factory shall be so overcrowded while work is carried on therein as to be likely to be injurious to the health of persons employed therein.

(b) Without prejudice to the generality of paragraph (a) of this subsection, a room shall be deemed to be so overcrowded if it contains less than four hundred cubic feet of space for each person employed therein, all space more than fourteen feet above the level of the floor being disregarded.

(2) Every part of the ceiling of a factory and of every room in a factory, and where there is no ceiling every part of the interior of the roof, shall be at least eight feet above the level of the floor.

(3)

(3) The regulations may—

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- (a) prescribe measures to be taken for the prevention of overcrowding in factories;
- (b) in respect of any class of factories or parts thereof require that rooms shall contain such greater space than that prescribed by subsection one of this section, or that the ceilings of the factories or parts shall be of such greater height than that prescribed by subsection two hereof, as is prescribed.

(4) Suitable atmospheric conditions shall be maintained in workrooms, by natural or artificial means, to avoid insufficient air supply, stagnant or vitiated air, harmful draughts, excessive heat or cold, sudden variations in temperature and where practicable, having regard to the nature of the processes carried on, to avoid excessive humidity or dryness, and objectionable odours.

The regulations may require prescribed measures to be taken in relation to the temperature and ventilation of workrooms in all factories or specified classes of factories.

24. (1) Effective provision shall be made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a factory in which persons are working or passing. **Lighting.**

(2) The regulations may prescribe standards of lighting in relation to all factories or specified classes of factories and may require prescribed steps to be taken or provision made in relation to such lighting.

(3) All glazed windows and skylights used for the lighting of workrooms shall, so far as practicable, be kept clean on both the inner and outer surfaces and free from obstruction: Provided that this subsection shall not affect the whitewashing or shading of windows and skylights for the purpose of mitigating heat or glare.

25.

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Sanitation
and hygiene
in
bakehouses.
cf. Act No.
39, 1912,
s. 23.

25. (1) (a) No place on the same level with a 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.

(b) No sanitary convenience, cesspit, or ashpit shall be within or communicate with the bakehouse.

(c) Any cistern for supplying water to a bakehouse shall be separate and distinct from any cistern supplying water to a water-closet.

(d) No drain-pipe for carrying off fæcal or sewage matter shall have an opening within a bakehouse.

(2) Every bakehouse shall be maintained in conformity with any standards of sanitation and hygiene which may be prescribed in respect of bakehouses.

(3) Any person who lets or occupies, or continues to let or knowingly suffers to be occupied, any place in which there is a breach of the provisions of this section shall be guilty of an offence against this Act.

Exemptions. **26.** The Under Secretary may by certificate under his hand grant, either absolutely or subject to conditions, exemption from compliance with any of the requirements of this Division where he is satisfied that compliance with those requirements would be unnecessary or impracticable.

DIVISION 5.—*Safety (Factories).*

Dangerous
machinery
to be
fenced.
cf. *Ibid.*
s. 33.
1 Edw. 8 &
1 Geo. 6,
c. 67,
ss. 12, 13.

27. (1) 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—

- (a) every flywheel directly connected to any prime mover, and every moving part of any prime mover shall be securely fenced whether the flywheel or prime mover is situated in an engine-house or not: Provided that every part of electric generators, motors and rotary converters, and every flywheel directly connected

connected thereto, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed in the factory as it would be if securely fenced; No. 43, 1962

- (b) every wheel-race not otherwise secured shall be securely fenced close to the edge of the wheel-race;
- (c) every part of the transmission machinery and every cog-wheel shall either be securely fenced or be in such position or of such construction as to be as safe to every person employed in the factory as it would be if securely fenced;
- (d) all fencing shall be constantly maintained in position in an efficient state while the parts required to be fenced are in motion or use.

(2) The duty imposed on the occupier of a factory by this section shall be an absolute duty, in no way qualified by any other provision of this Act.

(3) In this section "factory" includes, in addition to any premises which constitute a factory as defined in section four of this Act, any building in which sheep are shorn by machinery.

(4) Any occupier of a factory who contravenes any of the provisions of subsection one of this section shall be guilty of an offence against this Act and be liable to a penalty not exceeding three hundred pounds.

(5) In any prosecution for a breach of the obligation imposed on an occupier by paragraph (d) of subsection one of this section it shall be a defence if the defendant proves that—

- (a) the parts required to be fenced were necessarily exposed while in motion or use for examination or for lubrication or adjustment shown by such examination to be immediately necessary; and
- (b)

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- (b) the period of exposure was no longer than was absolutely necessary for such examination, lubrication or adjustment; and
- (c) he took all precautions necessary to avoid the risk of injury to any person; and
- (d) such other conditions as may be prescribed were complied with.

Trans-
mission
machinery.
cf. 1 Edw. 8
& 1 Geo. 6,
c. 67, s. 13.

28. (1) (a) In every room or place where work is carried on in a factory efficient devices or appliances shall be provided and maintained by which the power can promptly be cut off from the transmission machinery in that room or place.

(b) Where an inspector by notice in writing served on the occupier of a factory so requires, there shall be installed and maintained in the factory such devices or appliances as the inspector may in such notice specify for—

- (i) the interruption of the mechanical power supplied to any specified machine;
- (ii) the prompt stopping or bringing to rest of any specified machine after the mechanical power supplied to it has been interrupted.

Where the inspector by such notice so directs, such devices or appliances shall be placed in positions specified in the notice.

(2) No driving belt forming part of the transmission machinery in a factory shall, when not in use, be allowed to rest or ride upon any part of the transmission machinery.

(3) There shall be provided and maintained in every factory suitable striking gear or other efficient mechanical appliances for moving driving belts to and from fast and loose pulleys forming part of the transmission machinery in the factory, and such belts shall not be so moved except by means of such gear or appliances. The gear or appliances shall be so constructed, placed and maintained as to prevent the driving belt from creeping back on to the fast pulley.

29. (1) In the case of any machine in a factory, being a machine driven or intended to be driven by mechanical power—

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Construction, sale and use of new machinery. cf. 1 Edw. 8 & 1 Geo. 6, c. 67, s. 17.

- (a) every set-screw, pin, bolt or key on any revolving shaft, spindle, wheel, or pinion shall be so sunk, encased, or otherwise effectively guarded as to prevent danger;
- (b) all spur and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if completely encased.

(2) Every wheel or pulley which is part of the transmission machinery in a factory or of a machine driven or intended to be driven by mechanical power in a factory shall have a solid web or disc centre unless the wheel or pulley is totally encased or is in such a position as to be as safe as it would be if totally encased.

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

(4) Any person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire, for use in a factory in New South Wales any machine or machinery intended to be driven by mechanical power and which does not comply with the requirements of this section shall be guilty of an offence against this Act.

(5) The regulations may make it an offence for any person to sell or let on hire, or as agent of the seller or hirer to cause or procure to be sold or let on hire, for use in a factory in New South Wales, or for any prescribed use in a factory in New South Wales, all machines or machinery, or any prescribed class or description of machines or machinery, not complying with such provisions of this Act or the regulations as are specified by the regulations so made.

(6)

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(6) It shall be a defence to any prosecution for an offence—

- (a) against this section if the defendant proves that the machine or machinery to which the charge relates was manufactured in or imported into New South Wales before the commencement of this Act;
- (b) against any regulations made under this section if the defendant proves that the machine or machinery to which the charge relates was manufactured in or imported into New South Wales before the commencement of such regulations,

but the defendant shall be liable to pay the costs incurred by the prosecution unless he has given reasonable notice to the informant that he will rely on such defence.

Space
between
machines
and fixed
structures.
cf. Act No.
39, 1912,
s. 31.

30. (1) In any factory no moving part of any machine and no material carried on any moving part of any machine shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run within a distance of two feet from any fixed structure not being part of the machine.

(2) It shall be a defence to any prosecution for an offence against this section if the defendant proves that—

- (a) the machine to which the charge relates was installed in the factory before the commencement of this Act; and
- (b) the moving part or the material to which the charge relates was not allowed to run within a distance of eighteen inches from any fixed structure not being part of the machine,

but the defendant shall be liable to pay the costs incurred by the prosecution unless he has given reasonable notice to the informant that he will rely on such defence.

Fencing of
stock-bars
and
materials.
cf. 1 Edw. 8
& 1 Geo. 6,
c. 67, s.
14 (3).

31. (1) In any factory, any part of a stock-bar which projects beyond the head-stock of a lathe shall be securely fenced unless it is in such a position as to be as safe to every person employed in the factory as it would be if securely fenced.

(2)

(2) The regulations may, as respects any type of machine in factories or any process in which machines are used in factories, require the fencing of materials or articles while in motion in the machine and may regulate the manner of such fencing. No. 43, 1962

32. (1) The Chief Inspector, being satisfied that any machine or transmission machinery used in a factory is in such a condition that it cannot be used without danger to life or limb, may by notice in writing served on the occupier of the factory prohibit such machine or machinery from being used, or (if it is capable of repair or alteration) from being used until it is duly repaired or altered to the satisfaction of the Chief Inspector. Prohibition of use of machines. cf. Act No. 39, 1912, s. 35.

The Minister may rescind a notice given pursuant to this subsection.

(2) Where in any factory a machine or transmission machinery is used while a notice prohibiting its use is for the time being in force, the factory shall be deemed not to be kept in conformity with this Part of this Act.

33. (1) In every factory, the opening of every hoist-way, lift and well-hole, and all openings in walls and all open sides of mezzanine floors shall be rendered safe by fencing or by such other means as an inspector may approve. Lifts and openings. cf. *Ibid.* ss. 36, 37.

(2) If a lift in a factory used for the conveyance of employees or other persons is considered by an inspector to be unsafe or dangerous to use, he may by notice in writing prohibit the occupier from using such lift until it is made safe to the inspector's satisfaction. Should any lift be used at any time whilst its use is so prohibited, the occupier of the factory shall be guilty of an offence against this Act.

(3) No male under eighteen years of age and no female shall be allowed to have the care, custody, management, or working of any lift in a factory.

(4)

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(4) Subsections one and two of this section shall not apply to or in respect of any hoist-way or lift in any district or area in which the Scaffolding and Lifts Act, 1912, as amended by subsequent Acts, has effect.

In this section "lift" has the meaning ascribed thereto by the said Act, as so amended but in subsection three of this section does not include a lift capable of being operated from any landing, place or position outside the confines of the cage or car of the lift.

Floors,
passages
and stairs.
cf. 1 Edw. 8
& 1 Geo. 6,
c. 67, s. 25.

34. In every factory—

- (a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained;
- (b) substantial hand-rails shall be provided and maintained—
 - (i) on all open sides of stairways;
 - (ii) on both sides of every stairway which, by reason of its construction or the condition of the surface of the steps or otherwise, is likely to cause accidents,

and all such open sides shall be further guarded by the provision and maintenance of a lower rail or other effective means;

- (c) all openings in floors shall be securely fenced, except to the extent that and so long as the nature of the work done in the factory renders such fencing impracticable;
- (d) all ladders shall be of sound construction and properly maintained.

Storage and
transport
of hot and
corrosive
substances.

35. (1) In every factory in which there is any molten metal or hot or corrosive substance—

- (a) there shall be provided and maintained containers of such design, material and construction as to ensure safe storage, handling, transport and use of such metal or substance within the factory;

(b)

(b) every container for such metal or substance shall, if it is designed to revolve or tilt, be fitted with safe mechanical catches or other safe appliances which will regulate its position. No. 43, 1962

(2) The regulations may prescribe precautions to be taken in particular classes or descriptions of factories for the prevention of accidents arising from the storage, handling, transport or use of molten metal or hot or corrosive substances, and the precautions so prescribed shall be additional to those prescribed by subsection one of this section.

36. (1) No person employed in a factory shall be allowed or required to lift or carry by hand a greater weight than—

- in the case of males under sixteen years of age—thirty pounds;
- in the case of males over sixteen but under eighteen years of age—forty pounds;
- in the case of females under sixteen years of age—twenty pounds;
- in the case of females over sixteen but under eighteen years of age—twenty-five pounds;
- in the case of females over eighteen years of age—thirty-five pounds.

Lifting of weights.
cf. Act No. 39, 1912, s. 37.
1 Edw. 8 & 1 Geo. 6, c. 67, s. 56.

(2) Notwithstanding the foregoing provisions of this section, the regulations may prescribe the maximum weights which may be lifted, carried or moved by persons employed in factories, and regulations so prescribing may prescribe different weights in different circumstances and may relate either to all persons or any class of persons employed in factories or to persons employed in any prescribed class of factories or in any prescribed process.

37.

No. 43, 1962 **37.** In every factory, all steam pipes and all pipes used for heating purposes, other than pipes which are in such positions that persons employed in the factory would be unlikely to come in contact with them in the ordinary course of employment, shall be properly insulated or guarded.

Guarding
of steam
pipes.

Stacking of materials. **38.** All goods, articles and substances which are stored or stacked in a factory shall be stored or stacked—

- (a) in such manner as not to interfere with the adequate distribution of natural or artificial light, the proper operation of machines or other equipment, the unobstructed use of passageways or traffic lanes, and the efficient functioning of sprinkler systems or the use of other fire-fighting equipment;
- (b) on firm foundations not liable to settle and in such manner as not to overload the floors;
- (c) in such manner as will best ensure stability and prevent any collapse of such goods, articles or substances or their supports,

and shall not be stored or stacked against a wall or partition unless it is known that the wall or partition is of sufficient strength to withstand the pressure.

Dangerous containers. **39.** (1) In this section “dangerous container” means vat, pan, tank, sump, pit or similar vessel which contains any scalding, corrosive or poisonous liquid or which is otherwise dangerous because of its contents or depth.

cf. 1 Edw. 8
& 1 Geo. 6,
c. 67, s. 18.

(2) In every factory, every dangerous container of which the edge is less than three feet above the adjoining ground, floor or platform shall either be securely covered or be securely fenced to at least that height, or where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing or other means to prevent any person from falling into the dangerous container.

(3)

(3) Where a dangerous container in a factory is not securely covered, no plank, ladder, stair or gangway shall be placed across or inside it which is not—

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- (a) at least eighteen inches wide, and
- (b) securely fenced on both sides to a height of at least three feet and securely fixed.

(4) Where in a factory any dangerous containers adjoin, and the space between them, clear of any surrounding brick or other work, is less than eighteen inches in width or is not securely fenced on both sides to a height of at least three feet, secure barriers shall be so placed as to prevent passage between them.

(5) Every upper opening of every container, hopper or chute used for the reception of solid materials in a factory shall be provided with a grid such as will prevent persons from falling through the opening, unless the opening is as safe to all persons employed in the factory as it would be if provided with such a grid.

(6) The regulations may exempt any class of dangerous container from all or any of the provisions of subsections two, three and four of this section and in such case may prescribe other precautions for the prevention of accidents.

40. (1) There shall so far as is reasonably practicable be provided and maintained in every factory safe means of access to every place at which any person has at any time to work.

Safety of working places and means of access.

(2) Where in any factory a person is to work at a place from which he will be liable to fall a distance more than ten feet, then, unless the place is one which affords secure foot-hold and, where necessary, secure hand-hold, means shall be provided, so far as is reasonably practicable, by fencing or otherwise for securing his safety.

cf. 1 Edw. 8 & 1 Geo. 6, c. 67, s. 26.

(3)

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(3) The occupier of a factory shall, when so required by an inspector by notice in writing, provide within the factory such gangways or passageways as are specified in the notice. Such gangways or passageways shall—

- (a) be of such width as is specified in the notice, or if no width is specified shall be at least four feet wide;
- (b) have clearly marked boundaries; and
- (c) be kept clear of materials, stock and other obstructions.

If such notice is not complied with within the time for compliance specified therein the factory shall be deemed not to be kept in conformity with this Part of this Act.

Protection
from fumes,
etc.

cf. Act No.
39, 1912,
s. 25.

41. (1) In this section "fume" means fume, mist, gas, vapour, dust or other impurity.

(2) Where in connection with any process carried on in a factory there is generated or given off any fume of such a character and to such an extent that the inhalation thereof would be likely to be injurious or offensive to persons employed in the factory, or any substantial quantity of dust of any kind, effective measures shall be taken to prevent the accumulation in any workroom of such fume or dust and to protect such persons against the inhalation thereof.

Where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the fume or dust, so as to prevent it from entering the air of any workroom.

(3) The Chief Inspector may by notice in writing require an occupier of a factory to take such measures specified in the notice as in the opinion of the Chief Inspector are likely to prevent the emission into the atmosphere of any workroom or accumulation in any workroom of any fume or to protect any persons against the inhalation of any fume. If such notice is not complied with within the time for compliance specified therein the factory shall be deemed not to be kept in conformity with this Part of this Act.

Compliance with such a notice is not necessarily to be taken as compliance with subsection two of this section.

(4)

(4) Notwithstanding the provisions of this section, the regulations may prescribe—

- (a) the maximum concentration of any fume that may be present in any factory or class of factory or in specified parts of factories and impose a penalty on the occupier of a factory wherein such concentration is exceeded;
- (b) precautions to be taken in particular classes or descriptions of factories for the prevention of injury to health from the inhalation of fumes.

The regulations may exempt classes of factories from any of the requirements of subsection two of this section.

(5) No stationary internal combustion engine shall be used or operated in a factory unless effective provision is made for conducting the exhaust gases from the engine into the open air.

42. (1) In this section—

“confined space” means chamber, tank, vat, pit, pipe, flue or any other like structure or appliance in a factory, whether fixed or mobile and whether or not forming part of the plant or equipment of the factory, and in which—

- (a) dangerous fumes are liable to be present at any time, or
- (b) the atmosphere is liable at any time to contain insufficient oxygen for normal respiration, and which any person may at any time enter or be allowed to enter;

“fume” means fume, mist, gas, vapour, dust or other impurity.

(2) Unless there are other adequate means of egress every confined space shall be provided with a manhole which may be rectangular, oval or circular in shape and which shall be not less than eighteen inches long and sixteen inches wide or,

Confined spaces.
cf. Act No. 39, 1912, s. 25.

No. 43, 1962 or, if circular, not less than eighteen inches in diameter :
— Provided that in the case of tank waggons and other mobile plant, the manhole shall be not less than sixteen inches long and fourteen inches wide or, if circular, not less than sixteen inches in diameter.

(3) All practicable steps shall be taken to remove all dangerous fumes from a confined space before any person enters it and all practicable steps shall be taken to remove and render harmless any dangerous fumes which may be present at any time when any person is within the confined space.

(4) All practicable steps shall be taken to ensure that the air in a confined space is adequate for respiration at all times when any person is in the confined space.

(5) No person shall enter or remain in any confined space unless he is wearing—

- (a) a suitable breathing apparatus, and
- (b) a suitable harness to which there is attached a rope the free end of which is held by a person outside the confined space :

Provided that where it is necessary for a person to enter a confined space in order to rescue another person or in any case of pressing danger to life, then if compliance with the foregoing provisions of this subsection is not practicable he may enter the confined space if he is wearing a suitable breathing apparatus or a suitable harness to which there is attached a rope the free end of which is held by a person outside the confined space.

A self-contained breathing apparatus shall, for the purposes of this section, be deemed not to be a suitable breathing apparatus except in those cases where the Chief Inspector has issued a written authority for the use of such apparatus.

Where a person enters or remains in a confined space contrary to this subsection the occupier of the factory shall be guilty of an offence against this Act.

(6)

(6) In every factory in which there is a confined space— No. 43, 1962

- (a) a sufficient supply of suitable breathing apparatus, suitable reviving apparatus and suitable harness and ropes shall be provided and maintained so as to be readily accessible at all times and shall be thoroughly examined by a competent person at least once every three months or where other intervals are prescribed at such other intervals and a report on every such examination signed by the person making the examination and containing the prescribed particulars shall be kept available for inspection by an inspector;
- (b) a sufficient number of the employees in the factory shall be trained and regularly practised in the use of such apparatus and in the method of restoring respiration and a sufficient number of such employees shall be readily available whenever any person is inside a confined space.

(7) Every confined space shall be so located as to provide sufficient space to permit its safe, convenient and efficient operation, inspection and maintenance. Where the means of egress or manhole referred to in subsection two of this section are or is provided at the top of the confined space there shall be a clear space for a height of not less than four feet above such top.

(8) No work shall, in any factory, be done in any boiler furnace, boiler flue or other confined space in which excessive heat is present unless it has been sufficiently cooled by ventilation or otherwise to make work safe for the persons employed therein.

(9) Air supplied to any breathing apparatus or confined space referred to in this section shall be clean and fresh.

(10) The Chief Inspector may by certificate under his hand grant, either absolutely or subject to conditions, exemption from compliance with any of the requirements of this section where he is satisfied that compliance with those requirements would be unnecessary or impracticable.

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Precautions
against
explosion.cf. 1 Edw. 8
& 1 Geo. 6,
c. 67, s. 28.

43. (1) Where in connection with any process giving rise to dust or gas, there may escape into any workroom of a factory dust or gas of such a character and to such an extent as to be liable to explode or burn if ignited, all practicable steps shall be taken to prevent such explosion or burning by enclosure of the plant used in the process, and by removal or prevention of accumulation of the dust or gas, and by exclusion or effective enclosure of possible sources of ignition.

(2) Where in any factory there is present in any plant used in any such process as aforesaid dust or gas of such a character and to such an extent as to be liable to explode on ignition, then, unless the plant is so constructed as to withstand the pressure likely to be produced by any such explosion, all practicable steps shall be taken to restrict the spread and effects of such an explosion by the provision, in connection with the plant, of chokes, baffles and vents, or other equally effective appliances.

(3) Where in a factory any part of a plant contains any explosive or inflammable gas under pressure greater than atmospheric pressure, that part shall not be opened, except in accordance with the following provisions :—

(a) before the fastening of any joint of any pipe connected with the part of the plant or the fastening of the cover of any opening into the part is loosened, any flow of the gas into the part or into any such pipe shall be effectively stopped by a stop-valve or otherwise;

(b) before any such fastening as aforesaid is removed, all practicable steps shall be taken to reduce the pressure of the gas in the pipe or part of the plant to atmospheric pressure;

and if any such fastening has been loosened or removed as aforesaid, no explosive or inflammable gas shall be allowed to enter the pipe or part of the plant until the fastening has been secured or, as the case may be, securely replaced :

Provided that this subsection shall not apply to plant installed in the open air.

(4)

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall in a factory be subjected to any welding, brazing or soldering operation, to any cutting operation which involves the application of heat, or to any operation involving the application of heat for the purpose of forming, taking apart or removing the plant, tank or vessel or any part thereof or for the purpose of removing plant from the plant, tank or vessel unless—

- (i) all practicable steps have been taken to remove the substance and any fumes arising therefrom, or to render them non-explosive or non-inflammable, and
- (ii) suitable and adequate fire-fighting equipment is provided at the place where the operation is performed,

and if any plant, tank or vessel has been subjected to any such operation, no explosive or inflammable substance shall be allowed to enter the plant, tank or vessel until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Chief Inspector may by certificate grant, either absolutely or subject to conditions specified in the certificate, exemption from compliance with any of the requirements of subsections three and four of this section in any case where he is satisfied that compliance with the requirement is unnecessary or impracticable.

(6) In this section "gas" means gas, mist or vapour.

44. No person shall be employed in any factory to work at any machine unless—

- (a) he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed in connection with the machine; and
- (b) (i) he has received a sufficient training in work at the machine; or
- (ii) he is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

Training and supervision of persons working at machines. cf. Act No. 39, 1912, s. 41 (2).

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—
Means of
escape
from and
extinguish-
ing fires.
cf. Act No.
39, 1912,
s. 39.

45. (1) In every factory in which ten or more persons are employed 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 passages leading to such rooms, or serving as entrances and exits, shall neither be locked, bolted, nor barred during working hours.

(2) (a) Every factory in which persons are employed on any floor above or below the ground floor shall be provided with sufficient means of escape in case of fire for the persons employed therein. For the purposes of this paragraph means of escape shall not be deemed to be sufficient unless the means of escape and their efficiency have been approved in writing by the Board of Fire Commissioners of New South Wales.

(b) The obligation to provide such sufficient means of escape shall be upon the owner of the building in which the factory is situated.

Where such sufficient means of escape are not provided the Under Secretary may serve upon such owner a notice requiring him to provide the same within a period to be specified in the notice.

Any owner who neglects or fails to comply with any such notice shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred pounds and to a further penalty not exceeding ten pounds for each day during which such default continues.

(3) The means of escape in case of fire provided in any factory shall be maintained in good condition and free from obstruction, and if they are not so maintained the factory shall be deemed not to be kept in conformity with this Act.

(4) Before such means of escape are provided, two sets of plans and specifications thereof shall be submitted by the owner to the Under Secretary for approval, one set of which shall be retained by the Under Secretary.

On each set of plans shall also be shown the alternative means of egress from all floors of the building.

(5)

(5) In every factory there shall be such means of extinguishing fire as an inspector acting under the regulations may direct. No. 43, 1962

46. Any factory in which white phosphorus is used in the manufacture of matches shall be deemed to be a factory not kept in conformity with this Part of this Act. Use of white phosphorus.
Act No. 39, 1912,
s. 30A.

47. The Chief Inspector may by certificate under his hand grant either absolutely or subject to conditions, exemptions from compliance with any of the requirements of this Division where he is satisfied that compliance with those requirements would be unnecessary or impracticable.

DIVISION 6.—Notification of Accidents and Diseases occurring in Factories.

48. (1) Where in a factory an accident occurs which—
- (a) causes loss of life to a person employed in the factory, or
 - (b) is due to any machinery moved by mechanical power or to molten metal, hot liquid, or other hot substance, explosion, escape of gas or steam, or to electricity, or to an acid or alkaline solution, and so disables a person employed in the factory that during the whole of the working day next following the day on which the accident occurred he is absent from the factory or unable to perform his usual duties therein, or
 - (c) so disables a person employed in the factory that during the whole of the seven days next following the day on which the accident occurred he is absent from the factory or unable to perform his usual duties therein, or
 - (d) is of a class of accidents required by the regulations to be notified under this section,

written notice of the accident in the prescribed form and accompanied by the prescribed particulars shall forthwith be given by the occupier of the factory to the Under Secretary.

(2) If any accident causing disablement is notified under this section, and after notification thereof results in the death of the person disabled, notice in writing of the death shall

No. 43, 1962 shall be given by the occupier of the factory to the Under Secretary as soon as the death comes to the knowledge of such occupier.

(3) Written notice of every case of lead, phosphorous, arsenical or mercurial poisoning, anthrax or poisoning due to work in connection with radio-active substances and occurring in a factory, and every other case of disease so occurring and required by the regulations to be notified under this section, shall forthwith be given by the occupier of the factory in the prescribed form and accompanied by the prescribed particulars to the Under Secretary.

(4) The regulations may—

- (a) require the notification under this section of prescribed classes of accidents and cases of disease occurring in factories;
- (b) require the occupier of a factory to give to the Under Secretary at prescribed times and in respect of prescribed periods, in addition to the notices required by or under this section to be given, such particulars of and in respect of accidents and cases of disease occurring in the factory as may be prescribed.

In this subsection "accidents" includes accidents which do not result in loss of life or the disablement of any person as well as accidents which so result.

(5) (a) Any person who fails to comply with any of the provisions of this section or the regulations thereunder shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

(b) Proceedings in respect of any offence under the provisions of subsection one, two or three of this section may be instituted at any time within twelve months after the date on which the offence was committed.

DIVISION

DIVISION 7.—*Employment of Women and Young Persons in Factories.* No. 43, 1962

49. (1) 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 fourteen years.

Employment of children and young persons in factories.

cf. Act No. 39, 1912, ss. 40, 45, 47.

(2) A person under the age of sixteen years shall not be employed in a factory 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.

(3) A certificate of fitness for the purposes of this section 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 by such other evidence as may be prescribed 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.

(4) 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.

(5) 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.

(6)

No. 43, 1962

(6) 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 expiration of 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 expiration of such period to employ such person (notwithstanding that 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.

(7) Where in any factory a person is employed contrary to the provisions of this section the occupier of the factory shall be guilty of an offence against this Act.

Employment
of females
in factories.
cf. Act No.
39, 1912,
s. 48.

50. (1) The occupier of a factory in which a female performs any work during the six weeks immediately after her confinement shall be guilty of an offence against this Act provided it can be shown that he knew of such confinement.

(2) The occupier of a factory shall, on application being made to him by a female employed in the factory and where such female has furnished to him a certificate, signed by a legally qualified medical practitioner, as to the presumed date of her confinement, permit such female to absent herself from the factory—

- (a) during the time which commences on and includes the day four weeks before such presumed date and includes the actual date of her confinement, or during such part or parts of that time as may be specified by her in an application or applications so made; and
- (b) at such other time or times, not exceeding ten working days in the aggregate, before her confinement as may be so specified.

(3)

(3) Notwithstanding anything contained in any No. 43, 1962 award, agreement or contract of employment—

- (a) the absence of a female from a factory in accordance with subsection one or subsection two of this section, or on account of illness certified by a legally qualified medical practitioner to have arisen out of her pregnancy or confinement, shall not be deemed to terminate her employment;
- (b) no person shall—
 - (i) dismiss a female from her employment in a factory by reason of or during her absence from the factory, or
 - (ii) give any female notice of dismissal from her employment in a factory during her absence from the factory, or to take effect during such absence,

where such absence is in accordance with subsection one of this section or pursuant to leave granted under subsection two of this section or where such absence is of not more than two months' duration and is on account of illness certified by a legally qualified medical practitioner to have arisen out of her pregnancy or confinement.

(4) A person who contravenes any of the provisions of subsections two and three of this section shall be guilty of an offence against this Act.

(5) No employee shall be entitled, by reason only of the operation of this section, to wages for any period of absence from employment: Provided that nothing in this section shall affect the right of any employee under any Act other than this Act, or under any award, agreement or contract of employment, to sick leave or other leave, or to payment therefor.

No. 43, 1962 **51.** (1) The Minister may, by order published in the Gazette, prohibit the employment in any factory, or class of factory, at or in connection with any machinery described in the order as dangerous, of males under the age of sixteen years or of females in any work in which he considers it undesirable that they should be employed.

Employment of females and young persons in connection with machinery.
cf. Act No. 39, 1912. s. 41 (1).

Any such order may be issued either unconditionally or subject to conditions specified therein.

Where in any factory there is a contravention of such order or any conditions specified therein the occupier of the factory shall be guilty of an offence against this Act.

(2) No male under eighteen years of age and no female shall be allowed—

- (a) to clean or lubricate any part of the transmission machinery in a factory; or
- (b) to put on, put off, adjust, tighten or lace any belt or belting which is part of such transmission machinery; or
- (c) to go or remain on any overhead staging erected for the purpose of serving any such transmission machinery,

while such transmission machinery is in motion.

(3) No male under eighteen years of age and no female shall be allowed to work in any factory between the fixed and traversing part of any self-acting machine while the machine is in motion.

52. (1) No male under eighteen years of age and no female shall in any factory be employed—

- (a) for more than five hours without an interval of at least half an hour for a meal;
- (b) for more than three and a half hours without either an interval of at least half an hour for a meal or an interval of at least ten minutes for rest.

(2) Where in any factory there is a contravention of subsection one of this section the occupier of the factory shall be guilty of an offence against this Act.

Intervals for meals and rest in certain cases.
cf. *Ibid.* s. 42.

(3)

(3) This section shall not apply to or in respect of the employment of any person if an award or industrial agreement applicable to the employment of such person is for the time being in force under the Industrial Arbitration Act, 1940, or any Act amending or replacing that Act. No. 43, 1962

53. (1) No male under sixteen years of age and no female shall be employed in a factory for more than forty hours in any one week : Working of overtime by females and young persons.

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 twenty-four 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 forty-eight days in a year. cf. Act No. 39, 1912, s. 43.

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 not less than time and a half and any such person who is employed overtime after five o'clock in the afternoon shall be paid not less than five shillings for tea money in respect of each day upon which he is so employed. Such payment shall be made at intervals of not more than one month :

Provided that the provisions of this subsection relating to the payment of tea money shall not apply to or in respect of any person employed if an award or industrial agreement applicable to the employment of such person is for the time being in force under the Industrial Arbitration Act, 1940, or any Act amending or replacing that Act.

(2) In a factory in which overtime has been worked pursuant to subsection one of this section there shall be kept in the factory a record of all such overtime, setting forth in respect of each employee who has worked such overtime—

(a) the number of hours overtime worked and the starting and ceasing times in each case;

(b)

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(b) the payments made in respect of overtime and tea money; and

(c) such other particulars as are prescribed.

Such record may be incorporated with any time or wages record which is required to be kept under any Act other than this Act.

(3) Where in any factory there is a contravention of any of the provisions of this section the occupier of the factory shall be guilty of an offence against this Act.

(4) In this section "year" means a period of twelve months commencing on the first day of January.

Employment
of females
and young
persons at
night.
cf. Act No.
39, 1912,
s. 46.

54. (1) Subject to subsection two of this section, no male under sixteen years of age and no female shall be employed—

(a) in any factory, or

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

between the hours of six 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 fifty-three of this Act.

(2) The Minister may, by notice in the Gazette or by notice in writing to the occupier of each factory concerned, exempt from subsection one of this section, either absolutely or subject to such conditions and for such time as the Minister may think fit, any factory or part thereof or any specified class of factories or parts thereof either generally or situated in any specified locality.

(3) Where a person is employed contrary to this section in any factory or in the business of any factory, or where in respect of any factory there is a breach of any exemption or of any condition attaching to any exemption granted pursuant to this section, the occupier of the factory shall be guilty of an offence against this Act.

55.

55. (1) The regulations may prohibit or restrict the employment in factories or classes of factories or in such parts of factories or classes of factories or in such processes in factories as may be specified by the regulations, of females of any age, males under the age of twenty-one years of age, or males or females under such age being less than twenty-one years as may be so specified.

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Power to make regulations—females and young persons.

(2) Without limiting the generality of subsection one of this section, restrictions imposed by such regulations may relate to the number of hours in a week for which or the times at which such persons may be employed.

56. Nothing in the provisions of this Division of this Part of this Act or the provisions of any regulations thereunder shall affect the right of any employee in a factory to recover any such wages or other monies as would, but for such provisions, have been recoverable by virtue of any Act other than this Act or any award, agreement, or contract of employment; but no person shall be entitled to claim benefits under this Division in respect of any work done by him as well as benefits under any such Act, award, agreement, or contract in respect of the same work.

Saving of rights under awards, etc.

DIVISION 8.—*Welfare (Factories).*

57. (1) In every factory there shall be provided and maintained a sufficient supply of wholesome cool drinking water at suitable points conveniently accessible to all persons employed in the factory.

Supply of drinking water. cf. 1 Edw. 8 & 1 Geo. 6, c. 67, s. 41.

In the case of a water supply which is not laid on, the drinking water and vessels in which it is contained shall be protected from contamination.

Subject to the regulations, where an inspector so directs—

- (a) the drinking water shall be supplied through bubblers or drinking fountains which deliver the water in an upward direction;
- (b) the drinking water supply (whether laid on or not) shall be clearly marked "Drinking Water".

(2)

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(2) The regulations may in respect of all factories or any class or description of factories prescribe what shall, for the purposes of subsection one of this section, be a sufficient supply and other requisites for compliance with the said subsection.

Washing facilities.

cf. 1 Edw. 8 & 1 Geo. 6, c. 67, s. 42.

58. (1) In every factory there shall be provided and maintained for the use of the employees therein adequate and suitable facilities for washing, and the facilities shall be conveniently accessible to the employees and shall be kept in a clean and orderly condition.

(2) The regulations may in respect of all factories or any class or description of factories, or as respects any class or description of persons employed in factories—

- (a) prescribe what facilities shall, for the purposes of subsection one of this section, be adequate or suitable facilities for washing;
- (b) make provisions in respect of the supply of soap, clean towels or other means of cleaning or drying.

Sitting accommodation.

cf. 11 & 12 Geo. 6, c. 55, s. 6.

59. (1) Where any persons employed in a factory have in the course of their employment reasonable opportunities for sitting without detriment to their work, there shall be provided and maintained for their use suitable facilities for sitting sufficient to enable them to take advantage of those opportunities.

(2) Where in a factory a substantial proportion of any work can properly be done sitting—

- (a) there shall be provided and maintained for each person doing that work a seat of a design, construction and dimensions suitable for him and for the work, together with a foot rest on which he can readily and comfortably support his feet if he cannot do so without a foot rest; and

(b)

- (b) the arrangements shall be such that the seat is adequately supported while in use for the purpose for which it is provided. No. 43, 1962

For the purposes of this subsection, the dimensions of a seat which is adjustable shall be taken to be its dimensions as for the time being adjusted.

60. (1) In every factory not exempted from this section there shall be provided and maintained a first-aid chest containing such appliances and requisites for first-aid as are prescribed. First-aid.
cf. Act No.
39, 1912,
s. 38A.

(2) The regulations may in respect of all factories or any class or description of factories, other than factories exempted from this section—

- (a) require the provision and maintenance in the factory of such number of first-aid chests, in addition to the first-aid chest required by subsection one of this section to be provided and maintained, as is prescribed, and prescribing what appliances and requisites for first-aid such additional first-aid chests shall contain;
- (b) require the provision and maintenance in the factory of a first-aid room or rooms and of prescribed fittings and equipment therein;
- (c) regulate the manner in which first-aid chests and first-aid rooms provided pursuant to this section or the regulations shall be kept and maintained.

(3) The regulations may exempt classes or descriptions of factories from this section.

DIVISION 9.—Application of Certain Provisions to Shops.

61. (1) In sections nineteen, twenty-one, twenty-three, and twenty-four, subsections one and two of section thirty-three, and sections thirty-six, forty, forty-five, fifty, fifty-three and fifty-seven, to sixty, inclusive, of this Act, and in any provisions Application
of certain
provisions
to shops.

Factories, Shops and Industries Act.

No. 43, 1962 provisions extended to shops pursuant to subsection two of this section—

- (a) the expression “factory” shall include a shop;
- (b) the expression “workroom” shall include a room in which persons are employed in a shop.

(2) (a) The Governor may by proclamation published in the Gazette extend to shops such of the provisions of this Part of this Act (other than those referred to in subsection one of this section) applicable to or in respect of factories as may be specified in the proclamation.

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

(3) The regulations may regulate the construction of doors of exit in any specified classes of shops, and provide for uninterrupted exit by such doors during working hours.

cf. Act No.
39, 1912,
s. 40 (2).

(4) No child shall, unless by special permission of the Minister, be employed in any shop in the sale of motor spirit or motor oil.

The occupier of a shop in which there is a contravention of this subsection shall be guilty of an offence against this Act.

DIVISION 10.—The Factory and Industrial Welfare Board.

Factory and
Industrial
Welfare
Board.
cf. *Ibid.*
s. 36C.

62. (1) In this Division of this Part of this Act “the Board” means the Factory and Industrial Welfare Board constituted pursuant to this section.

(2) There shall be constituted a Factory and Industrial Welfare Board which shall consist of three members appointed by the Governor.

(3) One of such members, who shall be the chairman of the Board, shall be the person who for the time being holds the office of Chief Inspector. One of such members shall be representative of employers and the other shall be representative of employees.

(4)

(4) The members and deputy members of the Board, No. 43, 1962
other than the chairman, shall hold office for a term of seven
years and shall be eligible for re-appointment from time to
time on the expiration of their term of office.

(5) (a) If the chairman is unable to attend any
meeting of the Board he may appoint an inspector to attend
and act for him at such meeting and for all purposes such
person when so acting shall be deemed to be the chairman.

(b) The Governor may appoint a person to act
as a deputy for the member of the Board representative of
employers and a person to act as a deputy for the member of
the Board representative of employees. Each such deputy
member may act as a member of the Board during the illness
or absence of the member for whom he is a deputy and while
so acting shall be deemed to be a member of the Board.

(6) Members and deputy members of the Board shall
be entitled to receive such remuneration or fees for their
services as may be fixed from time to time by the Governor.

Each member and deputy member shall be entitled to receive
travelling expenses at such rate as the Governor may from
time to time determine.

(7) The provisions of the Public Service Act, 1902,
or of any Act amending that Act, shall not apply to or in
respect of the appointment of any member or deputy member
of the Board and a member or deputy member of the Board
shall not, in his capacity as such member or deputy member,
be subject to the provisions of any such Act during his term
of office.

(8) A member or deputy member of the Board, other
than the chairman, shall be deemed to have vacated his office
if he—

(a) dies;

(b) becomes bankrupt, compounds with his creditors or
makes any assignment of his estate for their benefit;

(c)

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- (c) is a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958; or
- (d) resigns his office by writing under his hand addressed to the Governor; or
- (e) is removed from office by the Governor.

(9) On the occurrence of a vacancy in the office of a member or deputy member of the Board, a person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(10) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred and imposed on the Board by or under this Division of this Part of this Act, the Board may, with the approval of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(11) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to this section and to any regulations made under this Act in relation thereto, be as determined by the Board.

Powers and
duties of
the Board.
cf Act No.
39, 1912,
s. 36c.

63. (1) The Board may in relation to factories or any factory or class or description of factories—

- (a) investigate and make recommendations to the Minister in respect of—
 - (i) special measures necessary to secure the safety or health of employees;
 - (ii) the prevention or diminution of noise;
 - (iii) the prevention of accidents;
 - (iv) the supply and use of protective clothing and protective equipment;
 - (v) the welfare of employees;
 - (vi) the provision of canteen facilities;
 - (vii)

(vii) the provision of facilities for medical or first-aid attention, including the appointment of personnel qualified to give medical, nursing or first-aid attention; No. 43, 1962

(b) collaborate with organisations of employers and of employees and authorities engaged in technical research in relation to the foregoing matters;

(c) encourage and assist in the establishment of welfare committees and safety committees, and direct and supervise the activities of such committees,

and shall investigate and report on any matter referred to it by the Minister in relation to the safety, health or welfare of employees in factories.

(2) The Board may, in relation to any industry, investigate and make recommendations to the Minister in respect of matters relating to—

(a) the lighting and ventilation of places of employment;

(b) the provision of closet accommodation for employees;

(c) the prevention or diminution of noise;

(d) the welfare of employees.

(3) The Board or any member thereof authorised by the Board under the hand of the chairman may at any reasonable time enter and inspect any premises used as a factory, or any premises or place in which an industry is being carried on, and any work being carried on there. If any person hinders or obstructs the Board or any member thereof in the exercise of the powers conferred by this section, he shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

64. The Minister may upon the recommendation of the Board and in the manner prescribed establish welfare or safety committees for any factory or class or description of factories. Such committees shall have such powers in relation to the promotion of the welfare or safety of employees in such factory or class or description of factories as may be prescribed. Welfare
or safety
committees.
cf. Act No.
39, 1912,
s. 36c.

DIVISION

Factories, Shops and Industries Act.

No. 43, 1962 **DIVISION 11.—***Boilers, Pressure Vessels, Engines and Refrigerating Systems.*

Power to
make
regulations.
cf. Act No.
39, 1912,
s. 62 (1A),
(1B).

65. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for securing the safe working and usage of boilers and pressure vessels, whether the same are in factories or not.

Without prejudice to the generality of the foregoing provisions of this subsection the Governor may make regulations—

- (a) relating to the design, construction, fitting, location, erection, installation, setting, alteration, repair, maintenance, operation and use of boilers and pressure vessels;
- (b) providing for the identification of boilers and pressure vessels and the marking of the maximum allowable safe working pressure on boilers and pressure vessels;
- (c) providing for the examination, qualifications, licensing, powers, duties, supervision and control of boiler inspectors;
- (d) providing for the inspection and testing and the certification as to maximum allowable safe working pressure and as to conditions and requirements for the safe working and usage of boilers and pressure vessels;
- (e) requiring designs, specifications and particulars of boilers and pressure vessels to be submitted to and approved by the Chief Inspector;
- (f) providing for the supervision of the manufacture of boilers and pressure vessels and the submission to the Chief Inspector of particulars relating to the welding and the plates and other component materials and parts of boilers and pressure vessels and the testing thereof;

(g)

- (g) requiring persons engaged as welders or welding supervisors in the manufacture of boilers and pressure vessels to hold certificates or permits and prescribing the qualifications which shall entitle persons to be issued with such certificates or permits; No. 43, 1962
- (h) prescribing the fees to be paid in respect of all or any of the following matters :—
- (i) the reviewing of designs, specifications and details of boilers and pressure vessels;
 - (ii) examination of candidates for licenses as boiler inspectors, for the issue of such licenses, and the annual renewal of such licenses;
 - (iii) examination of candidates for certificates or permits as welders or welding supervisors and for the issue of such certificates or permits;
 - (iv) specification forms and forms for use for the purposes of the regulations by boiler inspectors;
- (i) prescribing the fees to be charged by boiler inspectors;
- (j) authorising the Chief Inspector, by certificate in writing under his hand to exempt any boiler or pressure vessel or any class or type of boiler or pressure vessel from the operation of any provision of the regulations where he is satisfied that such provision cannot reasonably be applied to such boiler or pressure vessel or class or type of boiler or pressure vessel, as the case may be. Any such exemption may be absolute or may be made subject to such conditions as the Chief Inspector may impose.
- (2) (a) The Governor may make regulations not inconsistent with this Act—
- (i) providing for the qualifications, examination, certification, supervision and control of engine drivers and boiler attendants;

(ii)

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- (ii) providing for the granting and issue of appropriate certificates of competency or service in respect of the driver of any engine or class or type of engine and the attendant of any boiler or class or type of boiler and the cancellation and suspension of such certificates;
- (iii) providing for the establishment of an examination board for engine drivers and boiler attendants;
- (iv) relating to the powers, authorities, duties and functions of the examination board for engine drivers and boiler attendants;
- (v) prescribing the fees to be paid for examination for certificates of competency and the issue of certificates of service;
- (vi) prescribing the fees to be paid for the issue of statements of the particulars contained in certificates of competency and service;
- (vii) authorising the Chief Inspector by certificate in writing under his hand to exempt the driver of any engine or the attendant of any boiler from any or all of the provisions of the regulations where he is satisfied that such provisions cannot reasonably be applied to the driver of such engine or class or type of engine or to the attendant of such boiler or class or type of boiler, as the case may be. Any such exemption may be absolute or may be made subject to such conditions as the Chief Inspector may impose;
- (viii) prohibiting any person from being employed as or acting in the capacity of an engine driver of any class or type of engine unless he is the holder of a certificate of competency or of service appropriate to that class or type of engine;
- (ix) prohibiting any person from being employed as or acting in the capacity of a boiler attendant of any class or type of boiler unless he is the holder of a certificate of competency or of service appropriate to that class or type of boiler;

(x)

- (x) authorising the Chief Inspector by notice in writing under his hand to restrict or prohibit the performance by the driver of any engine or engines of such work, additional to the driving of that engine or those engines, as may be specified in the notice, and requiring persons to comply with the terms of any such notice. No. 43, 1962

(b) Any provision inserted in any regulation made under this subsection may apply to engines generally or to engines of any specified class or type or to engines other than of a specified class or type.

(c) Where an examination board for engine drivers and boiler attendants is established pursuant to this subsection, members of such board shall be entitled to receive such remuneration or fees for their services as may be fixed from time to time by the Governor, and each such member shall be entitled to receive travelling expenses at such rate as the Governor may from time to time determine.

(3) The Governor may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for securing the safe working and usage of refrigerating systems, whether the same be in factories or not.

DIVISION 12.—*Rural Industries.*

66. The Governor may make regulations not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for securing the health, safety and welfare of persons engaged in rural industries for hire or reward and whether as employees or otherwise. Power to
make
regulations.
cf. 4 & 5
Eliz. 2, c. 49,
s. 1.

Without affecting the generality of the foregoing provisions of this section, the Governor may, in relation to rural industries, make regulations—

- (a) regulating or prohibiting the use of any machinery, plant, structure, equipment or appliance, the carrying on of any operation or the use of any process;
- (b)

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- (b) imposing requirements with respect to the construction, installation, examination, repair, maintenance, alteration, adjustment and testing of machinery, plant, equipment or appliances and the safeguarding of dangerous parts thereof and prohibiting the sale or letting on hire of any machinery, plant, equipment or appliance which does not comply with the requirements of the regulations;
- (c) requiring the giving of instructions with respect to the proper manner of using any machinery, plant, equipment, or appliance, carrying on any operation, or using any process;
- (d) prohibiting the engagement in any prescribed process or description of work, of females of any age, males under the age of twenty-one years, or males or females under such age being less than twenty-one years as may be prescribed. Such a prohibition may be either absolute or except upon the condition of such persons having received a sufficient training in the process or work or being subject to such supervision as may be prescribed;
- (e) requiring the taking of such steps as may be prescribed for the purpose of bringing provisions of the regulations to the notice of persons engaged in rural industries for hire or reward and whether as employees or otherwise;
- (f) empowering an inspector to issue directions prohibiting the use of any machinery, plant, structure, equipment or appliance, the carrying on of any operation or the use of any process where it appears to the inspector that the use of that machinery, plant, structure, equipment or appliance, the carrying on of that operation or the use of that process, as the case may be, would be dangerous to human life or limb or that in relation thereto the provisions of the regulations are not being complied with;

(g)

- (g) requiring the notification, by and to such persons as are prescribed and in the prescribed form and manner, of the occurrence of accidents of such classes and the contraction of such diseases as may be prescribed; and the keeping of prescribed records in relation to the occurrence of accidents and the contraction of diseases, No. 43, 1962

and with respect to the foregoing matters imposing obligations on persons so engaged, their employers, and persons of other specified classes.

Any such regulations may be made in relation to all or specified rural industries, all or specified classes of premises or places in or upon which rural industries are carried on or all or specified types of machinery, plant, structure, equipment or appliances or all or specified processes used or work done in such industries.

67. (1) Every chaff-cutting machine (whether the same is in a factory or not) shall be provided with such guards as are prescribed and such guards shall be constantly maintained in an efficient state and properly adjusted.

Guards to be provided for chaff-cutting machines. cf. Act No. 39, 1912, s. 36B.

(2) If the owner or hirer of any chaff-cutting machine (whether the same is in a factory or not) does not provide the prescribed guards or does not constantly maintain such guards in an efficient state and properly adjusted he shall be guilty of an offence against this Act.

(3) If any person operates a chaff-cutting machine (whether the same is in a factory or not) without any guard required by or in pursuance of this section to be provided for the same or when such guard is removed or not properly adjusted—

- (a) in the case where such machine is not hired such person and the owner of such machine; and
- (b) in the case where such machine is hired such person and the hirer of such machine,

shall be severally guilty of an offence against this Act.

(4)

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(4) If any maker of a chaff-cutting machine or his agent or any seller of such machine (whether the same is to be used in a factory or not) delivers to a purchaser such a machine not equipped with the guards required by or in pursuance of this section to be provided for the same, he shall be guilty of an offence against this Act.

DIVISION 13.—*Regulations and Orders.*

Regulations. **68.** (1) The Governor may make regulations not inconsistent with this Act—

- (a) prescribing all matters necessary or convenient to be prescribed for securing the safety or health of persons employed in factories;
- (b) requiring the provision in factories of prescribed facilities for—
 - (i) medical or first-aid attention, including the appointment of personnel qualified to give medical, nursing or first-aid attention;
 - (ii) the welfare of persons employed;
- (c) relating to any matter the subject of a recommendation made by the Factory and Industrial Welfare Board pursuant to subsection one or two of section sixty-three of this Act, in so far as such regulations are necessary to give effect to such recommendation.

(2) Regulations made under subsection one of this section—

- (a) in relation to factories, may apply to all factories or prescribed classes of factories or prescribed parts thereof or any prescribed manufacture, machinery, plant, appliance, equipment, material, process, or description of manual labour used in factories or in any prescribed class of factories;
- (b) in relation to an industry, may apply to that industry or prescribed classes of premises used in that industry, or any prescribed manufacture, machinery, plant, appliance, equipment, material, process, or description of manual labour used in that industry.

69. (1) (a) Where the Minister is satisfied, upon the report of the Factory and Industrial Welfare Board constituted under this Act, or of an inspector or otherwise, that any manufacture, machinery, plant, appliance, equipment, material, process, or description of manual labour, used in any factory, is of such a nature as to require special measures to be taken for securing the safety or health of persons employed in connection therewith, or any class of those persons, or that facilities for medical or first-aid attention, including the appointment of personnel qualified to give medical, nursing or first-aid attention, rest, recreation, meals, changing and protection of clothing, and washing, are necessary or desirable in the interests of persons employed in any factory, or where a recommendation is made to the Minister by the Factory and Industrial Welfare Board pursuant to subsection one of section sixty-three of this Act with respect to any factory, the Minister may, subject to the provisions of this Act, by order direct the occupier of such factory to make such provision or to take such steps or to observe such prohibitions, restrictions, precautions, or obligations, or to provide such facilities, as appear to the Minister to be reasonably practicable and to meet the necessity of the case. Such order shall specify a time for compliance with the requirements thereof.

No. 43, 1962
Orders.
cf. Act No.
39, 1912,
s. 34.

(b) Where the requirements of an order made under this subsection have not been complied with within the time for compliance specified therein, the factory to which the order applies shall, while the failure to comply with those requirements continues, be deemed not to be kept in conformity with this Part of this Act.

(2) (a) Where a recommendation is made to the Minister by the Factory and Industrial Welfare Board pursuant to subsection two of section sixty-three of this Act with respect to any industry the Minister may, subject to the provisions of this Act, by order direct any employer in such industry to make such provision or to take such steps or to observe such prohibitions, restrictions, precautions, or obligations, or to provide such facilities, as appear to the

Minister

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 Minister to be reasonably practicable and to meet the necessity of the case. Such order shall specify a time for compliance with the requirements thereof.

(b) Any employer who fails to comply with the requirements of any order made in pursuance of this subsection shall be guilty of an offence against this Act.

(3) If an inspector reports that loss of life or bodily injury to any person has been or is likely to be caused in any factory by the machinery used therein or by explosion or by escape of gas or metal or by electricity, or by acid or alkaline solutions, the Minister may direct the occupier of such factory and of any other factory where the like danger exists to take such steps as the Minister may, by order, direct to prevent the occurrence of accidents.

If such steps are not taken accordingly in any factory within such time as the Minister directs, then such factory shall be deemed not to be kept in conformity with this Part of this Act.

DIVISION 14.—*Duties of Occupiers and Other Persons.*

Duties of
 occupiers.
 cf. Act No.
 39, 1912,
 s. 56.

70. Where the obligation to observe any of the provisions of this Part of this Act or any regulations thereunder which relate to factories or shops is not, by this Act, specifically imposed on any person then in the event of a contravention of any such provision in or in relation to a factory or shop the occupier of that factory or of that shop, as the case may be, shall be guilty of an offence against this Act.

Where by virtue of any provision of this Act a factory or shop is deemed not to be kept in conformity with this Part of this Act, the occupier of that factory or shop shall be guilty of an offence against this Act.

Duties of
 parents and
 guardians
 of young
 persons.
 cf. *Ibid.*
 s. 58.

71. 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 Division 7 of this Part of this Act, be guilty of an offence against this Act and be liable to a penalty not exceeding twenty pounds, unless it appears that such offence was committed without the consent, connivance, or wilful default of the parent or guardian.

72. (1) No person employed in a factory, shop, or other place shall wilfully interfere with or misuse any means, appliance or thing provided in pursuance of this Part of this Act for securing the health, safety or welfare of the persons employed in the factory, shop or place, and where any means, appliance or thing for securing health or safety is provided for the use of any such person in pursuance of this Part of this Act or the regulations or any order thereunder, he shall use such means, appliance or thing for the purpose for which it was provided.

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Duties of
persons
employed.

Where a guard or fence has in pursuance of this Part of this Act been provided for any machine or machinery in a factory no person employed in the factory shall operate that machine or machinery without that guard or fence or when the same is removed or not properly adjusted.

cf. Act No.
39, 1912,
s. 36A.

(2) Any person who contravenes the provisions of subsection one of this section shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

(3) This section shall not operate to prejudice or affect any right which, if this section had not been enacted, a person employed would have had, to recover damages, take any suit or proceeding, or receive payment or compensation in respect of any injury sustained by him.

Ibid.

DIVISION 15. Powers of Inspectors.

73. (1) Every inspector shall have power—

Power of
Inspectors.

(a) to enter, inspect, and examine, at all reasonable hours by day and night—

cf. *Ibid.* s. 9.

(i) any factory or shop, or any part thereof;

(ii) any premises or place wherein any boiler, pressure vessel, engine, refrigerating system or chaff-cutting machine is in use or any industry or rural industry is carried on;

(b)

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- (b) to enter, inspect, and examine, by day any premises or place which he has reasonable cause to believe is used as a factory or shop or wherein he has reasonable cause to believe a boiler, pressure vessel, engine, refrigerating system or chaff-cutting machine is used or any industry or rural industry is carried on;
- (c) to take with him when entering, inspecting or examining as aforesaid any factory, shop, premises or place, an officer of health, an inspector of nuisances, a building inspector, an inspector under the Inflammable Liquid Act, 1915, or any Act amending or replacing that Act, or any person whom he may think qualified to act as an interpreter; or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;
- (d) to require the production of the certificate of registration of any factory, or any book, notice, register, record, list, or document which is by this Part of 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;
- (e) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Part of this Act or any Act relating to the public health are complied with in respect of the factory or shop, premises or place, and the persons employed therein;
- (f) to take samples of substances used in or for the purpose of a manufacturing process carried on in a factory and to take samples of the air in a factory;
- (g) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Part of this Act, any person whom he finds in the factory or shop, premises or place, or whom he has reasonable cause to believe is or has been within the preceding two months employed therein,

therein, 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 : No. 43, 1962

Provided that no person shall be required to answer any question if the answer to such question might incriminate him ;

- (h) to attend and examine witnesses at any inquest into the cause of the death of any employee while employed in a factory or shop or in any industry or rural industry or at or in connection with any boiler, pressure vessel, engine, refrigerating system, or chaff-cutting machine ;
- (i) to exercise all other powers that may be necessary for carrying out the provisions of this Part of this Act.

(2) The occupier of every factory or shop, and of any premises or place referred to in subsection one of this section, 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 Part of this Act in relation to such factory, shop, premises or place, as the case may be. cf. Act No. 39, 1912, s. 10.

PART IV.

RESTRICTION OF HOURS OF TRADE OR WORK IN CERTAIN INDUSTRIES.

DIVISION 1.—*Preliminary.*

74. (1) In this Part of this Act, unless the context or subject matter otherwise indicates or requires— Definitions. cf. *Ibid.* s. 98.

“Area” means area to which the provisions of any State award or any award for the time being in force under any Commonwealth Act relating to industrial arbitration fixing the time for the commencement, or cessation, or the times for the commencement and cessation, of the ordinary hours of work by employees in shops therein apply.

“Bread”

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“Bread” includes bread rolls.

“Close” means close to the admission of the public, and in the case of an automatic vending device as defined by section ninety of this Act means close for the purposes of trade, and words derived therefrom have a corresponding meaning.

“Employ” means employ in any way or in any kind of work.

“Furniture factory” means a factory wherein any person is engaged in preparing, manufacturing, or assembling articles of furniture.

“Make or bake” in relation to bread or pastry does not include any operations connected with the preparation of dough for bread or pies, or with the preparation or cooking of meat required for pie-making, or with the firing of ovens.

“Motor accessories” includes spare parts for motor vehicles.

“Pastry” includes cakes, biscuits, muffins and crumpets and any goods usually made by pastrycooks.

“State award” means award made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

“Warehouse” means place or building in which goods are sold or offered or exposed for sale by wholesale, and includes any portion of a building which is separated from the rest of the building by a substantial partition, and in which goods are sold or offered or exposed as aforesaid, and includes, where the context requires it, kind or class of warehouse.

“Week day” means any day of the week except Sunday.

(2) For the purposes of this Act, a shop or warehouse shall be deemed to be open if—

- (a) it is not closed to the admission of the public, or
- (b) any goods are sold or offered for sale therein, or
- (c)

- (c) any person is in attendance at the shop or warehouse for the receipt, by any means, of
- (i) orders for goods, or
 - (ii) requests for the demonstration of goods, or the delivery of goods on approval.

DIVISION 2.—*Registration of Shops.*

75. In this Division of this Part of this Act, unless the context or subject matter otherwise indicates or requires—

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

“Shopkeeper” means occupier of a shop.

76. (1) (a) Every person who at the commencement of this Act is the shopkeeper of a shop and who has not made application to the Under Secretary in the form prescribed under the Acts hereby repealed for a certificate of registration of the shop shall, within fourteen days after such commencement, make application to the Under Secretary in the prescribed form for a certificate of registration of the shop.

(b) Every person who after the commencement of this Act becomes the shopkeeper of a shop shall within fourteen days of entering into occupation of the shop make application to the Under Secretary in the prescribed form for a certificate of registration of the shop.

(2) Every such application shall be accompanied by the prescribed fee.

(3) Every applicant for registration or renewal of registration of a shop shall furnish the Under Secretary with such particulars as the Under Secretary may require or as may be prescribed in order to enable him to determine the class to which the shop belongs, and the Under Secretary shall register each shop as belonging to the class so determined.

(4) (a) The determination of the Under Secretary as to the class to which any shop belongs shall, unless an appeal is lodged in the manner and within the time prescribed by paragraph (b) of this subsection, be final.

(b)

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—

(b) If the applicant is dissatisfied with the determination of the Under Secretary as to the class to which a shop belongs he may within seven days after being notified of such determination appeal to the Minister in the manner prescribed.

The Minister shall thereupon determine the class to which the shop belongs and his decision shall be final.

(5) The Under Secretary shall, if satisfied that all the requirements of this Part of this Act have been fulfilled, register the shop and issue to the shopkeeper a certificate of registration in the prescribed form.

(6) (a) Subject to paragraph (d) of this subsection and section one hundred and thirty-nine of this Act—

(i) the registration of a shop and any certificate of registration issued in respect thereof shall be operative from the date of issue of the certificate until the expiration of a period of one year from the last day of the month in which it was issued;

(ii) every registration of a shop and the certificate of registration issued in respect thereof may, on payment of the prescribed fee, be renewed, and on each renewal shall be operative for a further period of one year.

(b) The prescribed fee payable in respect of the registration of a shop and the issue of a certificate of registration in respect thereof, or for the renewal of registration of a shop and the issue of a certificate of renewal of registration in respect thereof, shall be the appropriate amount specified in Schedule Two to this Act.

(c) In any case where during the currency of any registration or renewal of registration of a shop the number of persons employed in the shop is so increased that, if the increased number of persons had been so employed immediately before the last renewal of registration of the shop and the issue of the certificate of renewal of registration in respect thereof, or, if the first registration of the shop has not been renewed,

renewed, the first registration of the shop and the issue of the certificate of registration in respect thereof, a larger fee would have been payable in respect of the renewal of such registration and the issue of such certificate of renewal of registration or such registration and issue of such certificate of registration, as the case may be, the person in whose name the shop is registered shall within twenty-one days after the date of the increase give written notice of the increase to the Under Secretary, and pay to him an amount equal to the difference between—

- (i) the prescribed fee paid in respect of the last renewal of registration of the shop and the certificate of renewal of registration issued in respect thereof, or if the first registration of the shop has not been renewed, in respect of that registration and the certificate of registration issued in respect thereof; and
- (ii) the prescribed fee which would have been payable if the number of persons so employed, as so increased, had been so employed at the time of such last renewal of registration or if such first registration has not been renewed, at the time of that registration, as the case may be :

Provided that where the number of persons so employed is so increased after the expiration of one half of the period for which the certificate was last renewed, or if it has not been renewed, was issued, the amount to be paid to the Under Secretary under the provisions of this paragraph shall be reduced by one half.

(d) A registration or renewal of registration of a shop, and the certificate of registration or renewal of registration issued in respect thereof, shall cease to be operative if the person named in the certificate of registration or renewal of registration ceases to be the occupier of the shop.

(e) The Under Secretary shall, if satisfied that the requirements of this Part of this Act have been fulfilled, renew the registration of the shop and issue to the shopkeeper a certificate of such renewal in the prescribed form.

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— (7) The Minister may by notice in writing exempt any shopkeeper from the payment of a registration fee—

- (a) if he is satisfied that—
 - (i) the case is one of great hardship; or
 - (ii) the shopkeeper is a widow or an old or physically disabled person; or
 - (iii) the shop is occupied by and for the purposes of a bona fide charitable organisation, or
- (b) where the premises occupied as a shop by the shopkeeper are registered as a factory.

Occupation
of
unregistered
shops.
cf. Act No.
39, 1912,
s. 103.

77. (1) Subject to section one hundred and forty of this Act, where no certificate of registration or of renewal of registration is for the time being operative in respect of a shop, the shopkeeper of the shop shall, unless he proves that—

- (a) he had applied within the prescribed time for such a certificate of registration or of renewal of registration, as the case may be; and
- (b) he had complied with the provisions of this Act in respect of such application; and
- (c) such application had not been refused,

be guilty of an offence against this Act.

(2) If any shopkeeper fails to give any notice required to be given by him under paragraph (c) of subsection six of section seventy-six of this Act or to pay the amount required by that paragraph to be paid by him he shall be guilty of an offence against this Act.

(3) Any fee payable by a shopkeeper in respect of the registration or renewal of the registration of a shop may be sued for and recovered as a debt by and in the name of the Minister by any person authorised by him.

In any proceedings for the recovery of such a fee, the production of an authority purporting to be signed by the Minister shall, without proof of the signature, be prima facie evidence of the appointment of the person named therein to sue and that his authority to sue remains in force.

DIVISION

DIVISION 3.—*Opening and Closing Hours of Shops and Warehouses.* No. 43, 1962

78. In this Division of this Part of this Act, unless the context or subject matter otherwise indicates or requires—

Definitions and application. cf. Act No. 39, 1912, s. 104.

“Occupier” means person, partnership, association, or corporation occupying a warehouse, directly or indirectly, as principal, and includes a person who continues to be the occupier of a warehouse under the provisions of section ninety-one of this Act.

“Scheduled shop” means shop of any of the classes specified in Schedule Three to this Act.

“Shop” means place, building, stall, tent, vehicle, boat, or pack in which goods are sold or offered or exposed for sale by retail, or from which goods are sold by retail, or in which the business of a hairdresser, pawnbroker or farrier is carried on, and includes any portion of a building which is separated from the rest of the building by a substantial partition, and in which goods are sold or offered or exposed as aforesaid, or in which any such business as aforesaid is carried on, and includes where the context requires it, kind or class of shop.

“Shopkeeper” means person, partnership, association, or corporation occupying a shop, directly or indirectly, as principal, and includes hawkers and pedlars, and also includes a person who continues to be a shopkeeper of a shop under the provisions of section ninety-one of this Act, but does not include a commercial traveller bona fide engaged in selling goods to a shopkeeper by sample only.

“The day of the weekly half-holiday” means—

- (a) in relation to shops situate in the town of Tweed Heads, as defined by section eighty of this Act, Wednesday;

(b)

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(b) in relation to shops situate in all other areas,
Saturday :

Provided that on and from the appointed day referred to in the said section the day of the weekly half-holiday shall, in relation to shops situate in all areas, mean Saturday.

Closing
and open-
ing times
of certain
shops on
week days.

79. (1) The closing time for any class of shops, other than chemists' shops, hairdressers' shops, butchers' shops and shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories, situate in any area, whether or not employees are employed in such shops, shall on each week day be such time as may be fixed by any State award for the time being in force for the cessation of the ordinary hours of work by employees in such class of shops in such area.

(2) The closing time for chemists' shops situate in any area, whether or not employees are employed in such shops, shall on each week day be such time as may be fixed by any State award for the time being in force for the cessation of the ordinary hours of work by employees in such shops in such area and, where provision is made for the reopening of such shops on the day of the weekly half-holiday, opening and closing times for the reopening of such shops so situated shall be such times as may be fixed by any such award for the commencement and cessation, for the purpose of such reopening, of the ordinary hours of work by employees in such shops so situated.

(3) The opening and closing times for hairdressers' shops situate in any area, whether or not employees are employed in such shops, shall on each week day be such times as may be fixed by any State award for the time being in force for the commencement and cessation, respectively, of the ordinary hours of work by employees in such shops in such area : Provided that on all days appointed by such an award to be holidays for such employees in any area all hairdressers' shops in that area shall be kept closed.

(4)

(4) The opening and closing times for butchers' shops situate in any area, whether or not employees are employed in such shops, shall on each week day be such times as may be fixed by any State award for the time being in force or by any award for the time being in force under any Commonwealth Act relating to industrial arbitration for the commencement and cessation, respectively, of the ordinary hours of work by employees in such shops in such area: Provided that where the time so fixed in respect of any area by an award made under any such Commonwealth Act for the cessation of the ordinary hours of work by employees in such shops—

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- (a) on any week day other than the day of the weekly half-holiday is later than six o'clock in the afternoon, the closing time for butchers' shops situate in that area shall on that week day be six o'clock in the afternoon;
- (b) on the day of the weekly half-holiday is later than one o'clock in the afternoon, the closing time for butchers' shops situate in that area shall on that day be one o'clock in the afternoon.

80. (1) In this section—

“appointed day” means a day to be appointed by the Governor and notified by proclamation published in the Gazette, such day being subsequent to the date of commencement of this Act;

Weekly
half-holiday
—town of
Tweed
Heads.
cf. Act No.
39, 1912,
s. 105.

“the town of Tweed Heads” means the area which was constituted by proclamation published under the provisions of section four of the Early Closing (Amendment) Act, 1900, in the Government Gazette of the twenty-ninth day of May, one thousand nine hundred and seven, as the country shopping district of Tweed Heads.

(2)

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(2) Where immediately before the appointed day the closing time on Saturday fixed by or under this Act for any class of shops (other than scheduled shops) in the town of Tweed Heads is later than half-past twelve o'clock in the afternoon, then, as on and from the appointed day—

- (a) the closing time on Saturday for such class of shops in that town shall be half-past twelve o'clock in the afternoon;
- (b) the closing time on Wednesday for such class of shops in that town shall be half-past five o'clock in the afternoon;
- (c) the terms of any State award in force on the said day which fixes a time for the cessation of the ordinary hours of work by employees in such class of shops in that town shall be deemed to be varied by substituting for the times thereby fixed for the cessation of such hours in such class of shops in that town on Saturday and on Wednesday the times referred to in paragraph (a) and paragraph (b), respectively of this subsection.

(3) As soon as practicable after the appointed day the Industrial Registrar shall, subject to appeal to the Industrial Commission of New South Wales, vary the terms of any State award referred to in subsection two of this section to the extent necessary to give effect to the provisions of that subsection. The Industrial Registrar may refer any matter arising under this subsection to the Industrial Commission of New South Wales for directions.

Closing and opening times of shops for the sale of motor vehicles, motor spirit, etc.
cf. Act No. 39, 1912, s. 105A.

81. (1) The opening and closing times for shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories shall—

- (a) on Saturdays, Sundays and public holidays, be seven o'clock in the forenoon and six o'clock in the afternoon respectively.

In

In this paragraph "public holidays" means the first day of January, the twenty-sixth day of January, Easter Monday, the anniversary of the birth of Her Majesty and the twenty-sixth day of December, or any day observed as such in accordance with the provisions of the Banks and Bank Holidays Act, 1912, as amended by subsequent Acts, and any day appointed by the Governor pursuant thereto as a public holiday throughout the State; No. 43, 1962

- (b) on all other days, be six o'clock in the forenoon and half-past eight o'clock in the afternoon respectively :

Provided that on the days observed as Christmas Day, Good Friday and Anzac Day such shops shall be kept closed;

- (c) in any part of the State or in any city, town, or district therein, in respect of which the Governor has, pursuant to the Banks and Bank Holidays Act, 1912, as amended by subsequent Acts, appointed a special day or special half-day to be observed as a public holiday, on such public holiday, be seven o'clock in the forenoon and six o'clock in the afternoon respectively.

(2) Where after the commencement of this Act an award is made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, fixing the commencement and cessation of the ordinary hours of work by employees in shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories in any area, the opening and closing times for such shops in any such area, shall be the times so fixed respectively for the commencement and cessation of the ordinary hours of work by such employees under such award : Provided that nothing in this subsection contained shall operate so as to permit any shop for the sale of motor vehicles, motor spirit, motor oil or motor accessories to be opened earlier than or closed later than the times prescribed by subsection one of this section as the opening and closing times respectively for such shop.

(3)

No. 43, 1962

(3) If any shop for the sale of motor vehicles, motor spirit, motor oil or motor accessories is open at any time on any day before the opening time fixed by or under this Act for such day in respect of such shop or is not closed and kept closed for the remainder of such day at and after the closing time fixed by or under this Act for such day in respect of such shop or is open at any time on any day on which such shop is required by or under this Act to be kept closed, the shopkeeper and any person acting or apparently acting in the management of the shop shall be guilty of an offence against this Act.

Provided that if a sale of motor spirit, motor oil or motor accessories to any driver of a motor vehicle in a case of emergency (which such driver could not reasonably have been expected to foresee) for the purpose of enabling him to make or continue any journey in a motor vehicle takes place from any such shop at any time when such shop should pursuant to this section be closed that sale or the opening of such shop for the purpose only of that sale shall not be deemed to constitute an offence against this Act if before the sale takes place such driver supplies to the shopkeeper or person acting or apparently acting in the management of the shop the prescribed information and verifies the same by subscribing his name in the book prescribed to be kept by the shopkeeper.

(4) Every shopkeeper of every shop for the sale of motor spirit, motor oil or motor accessories shall keep a book in the prescribed form in which the information supplied as aforesaid shall be entered and shall retain such book in his possession for a period of three months after such book is completed.

(5) Nothing in this section shall be deemed to render unlawful the opening at any time of any shop at which motor vehicles are garaged for the purpose only of the egress or ingress of motor vehicles from or to such shop.

(6) Any person who wilfully supplies false information under this section to a shopkeeper or person acting or apparently acting in the management of the shop or any person who wilfully makes any false entry in the book required to be kept under this section shall be guilty of an offence against this Act.

82. (1) (a) Where the trade carried on in a shop includes trade usually carried on in two or more classes of shops the shop shall be kept closed at all times when shops of any of such classes are required by this Act to be kept closed: ^{No. 43, 1962}
Provided that it shall be lawful for the shop to be kept open at any such time if all goods therein, which are usually the subject of trade in a class or classes of shops required by this Act to be kept closed at that time, are partitioned off in the prescribed manner. <sup>Closing
time of
mixed shops.</sup>

(b) In any information alleging that a shop to which paragraph (a) of this subsection applies was open at a time when it was required by this Act to be kept closed, it shall be a sufficient description of the offence charged to allege that the shop was of a specified class, being one of the classes included in the trade carried on in the shop, and was open at the time of the alleged offence, being a time when shops of such specified class are required by this Act to be kept closed.

(2) (a) Where a shopkeeper of a shop to which the provisions of subsection one of this section apply has within a period of three years been convicted three times for offences under section eighty-six of this Act, the Industrial Commission of New South Wales may order that in respect of the shop while occupied by such shopkeeper and of any other shop to which the business of such shopkeeper may be transferred the provisions of the said subsection shall for such period as the Commission may determine operate as though the proviso to paragraph (a) of the said subsection were omitted; and the said subsection shall for the period so determined operate in accordance with the order of the Commission.

(b) An application for an order under paragraph (a) of this subsection shall be made by the Minister or by an inspector authorised in that behalf by the Minister.

Any such application shall be made as prescribed by regulations made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

An

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 — An authority to make such application purporting to have been signed by the Minister shall be prima facie evidence of such authority without proof of the Minister's signature.

Closing
 times for
 warehouses.

83. The closing time for any class of warehouses, situate in any area, in respect of which the time for the cessation of the ordinary hours of work by employees in such class of warehouses is fixed by any State award for the time being in force shall on each week day be the time for the cessation of the ordinary hours of work by employees as aforesaid.

Trading
 hours of
 shops on
 Sunday.

84. (1) This subsection shall apply to all shops other than scheduled shops and shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories.

Every shop to which this subsection applies shall, whether or not employees are employed therein, be kept closed on Sundays.

(2) Where a State award made after the commencement of this Act and for the time being in force fixes times for the working of ordinary hours of work on Sundays by employees in a class of scheduled shop situated in any area, each shop of that class situated in that area shall, whether or not employees are employed therein, be kept closed on Sundays except during the period or periods on Sundays fixed by the award for the working of such ordinary hours.

(3) Where there is no State award made after the commencement of this Act and for the time being in force in any area fixing times for the working of ordinary hours of work on Sundays by employees in a class of scheduled shops situated in that area—

- (a) the closing time on Sundays for that class of shops situated in that area shall, whether or not employees are employed therein, be the time fixed immediately before such commencement by or under the Factories and Shops Act, 1912-1960, as the closing time on the day of the weekly half-holiday for that class of shops situated in that area; and

(b)

- (b) where in the case of chemists' shops provision was made by or under the Factories and Shops Act, 1912-1960, immediately before such commencement, for the reopening of such shops, situated in that area, on the day of the weekly half-holiday, opening and closing times on Sunday for the reopening of such shops situated in that area shall, whether or not employees are employed therein, be the opening and closing times, respectively, fixed immediately before such commencement by or under the said Act for such shops, situated in that area, for the purpose of such reopening on the day of the weekly half-holiday. No. 43, 1962

(4) The provisions of any law, other than this Act and any State award, to the extent to which it prohibits the opening of any shop on Sunday or any trading or dealing in goods in any shop on Sunday shall, as from the commencement of this Act, cease to be of any force or effect.

85. In making an award affecting employees in shops or warehouses the Industrial Commission of New South Wales or the Conciliation Commissioner or a conciliation committee as the case may be shall after consideration of the operation and effect of this Division of this Part of this Act fix— Matters to be dealt with in awards. cf. Act No. 39, 1912, s. 107.

- (a) in the case of shops other than butchers' shops, hairdressers' shops, chemists' shops and shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories, and in the case of warehouses, the time for the cessation; and
- (b) in the case of butchers' shops and hairdressers' shops, the times for the commencement and cessation,

of the ordinary hours of work on week days by employees in such shops or warehouses, as the case may be, in any area; and

(c)

Factories, Shops and Industries Act.

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- (c) in the case of chemists' shops, the time for the cessation of the ordinary hours of work on week days for employees in such shops situate in any area, and, where provision is made for reopening on the day of the weekly half-holiday the times for the commencement and cessation, for the purposes of such reopening, of the ordinary hours of work by employees in such shops so situated;
- (d) in the case of shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories, the times for the commencement and cessation of the ordinary hours of work on all days by employees in such shops in any area;
- (e) in the case of scheduled shops, the times for the working of ordinary hours of work on Sunday by employees in such shops in any area, and shall determine whether such hours shall be worked in one or more than one period on Sunday and fix the starting and ceasing times of each such period.

The time fixed by any such award for the cessation of the ordinary hours of work on week days by employees in shops (other than scheduled shops and shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories) in any area shall not be later than six o'clock in the afternoon, and the time fixed by any such award for the cessation of the ordinary hours of work by employees in shops (other than scheduled shops and shops for the sale of motor vehicles, motor spirit, motor oil or motor accessories) in any area on the day of the weekly half-holiday shall be not later than one o'clock in the afternoon.

Offences.

86. (1) Where by or under this Act—

- (a) an opening time on any week day is fixed for or in respect of any shop, the shop shall be kept closed on that day until that opening time;
- (b)

(b) a closing time on any week day or Sunday is fixed No. 43, 1962
for or in respect of any shop or warehouse, the shop
or warehouse shall be kept closed for the remainder
of that day at and after that closing time : Provided
that where, in the case of chemists' shops, provision
is made for the reopening of such shops on the day
of the weekly half-holiday or Sunday, every such
shop shall be kept closed during the remainder of
such half-holiday or Sunday other than such period
as may be allowed for the reopening.

(2) Where any shop or warehouse is open at a time
when it is required by or under this Act to be kept closed, the
shopkeeper of the shop or occupier of the warehouse, as the
case may be, and any person acting or apparently acting in the
management of the shop or warehouse, as the case may be,
shall be guilty of an offence against this Act :

Provided that no such shopkeeper, occupier, or person shall
be guilty of the said offence by reason only that within one
half hour after the relevant closing time, or the first half hour
of a period for which the shop or warehouse is required by
or under this Act to be kept closed, as the case may require,
goods have been offered for sale or sold to a customer who at
the relevant closing time, or at the commencement of that
period was in the shop or warehouse being served or waiting
to be served.

(3) Nothing in subsections one and two of this section
shall apply to or in respect of shops for the sale of motor
vehicles, motor spirit, motor oil or motor accessories.

(4) If in any hairdresser's shop any work is done for
any customer at a time when such shop is required by or under
this Act to be kept closed, the shopkeeper of the shop and any
person acting or apparently acting in the management of the
shop shall be guilty of an offence against this Act :

Provided that no such shopkeeper or person shall be guilty
of the said offence by reason only that within the fifteen
minutes after the closing time for that shop any work was done
for a customer who at the closing time was in the hairdresser's
shop being attended to or waiting to be attended to.

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 ———
 Penalty for
 publishing
 certain
 statements.

87. (1) Any person who publishes or causes to be published any statement which is intended or apparently intended to promote the business carried on in a shop or warehouse and which states, implies or suggests that at a time when that shop or warehouse is required by or under this Act to be kept closed—

- (a) the shop or warehouse will be open to the admission of the public for any purpose of trade or the inspection of goods, or
- (b) any goods will be sold or offered for sale in the shop or warehouse, or
- (c) any person will be in attendance at the shop or warehouse or at any other place for the receipt, by any means, of
 - (i) orders for goods, or
 - (ii) requests for the demonstration of goods, or the delivery of goods on approval,

shall be guilty of an offence against this Act.

(2) A statement shall be deemed to be published within the meaning of this Act if it is—

- (a) inserted in any newspaper or any other publication printed and published in New South Wales; or
- (b) publicly exhibited—
 - (a) in, on, over or under any building, vehicle or place (whether or not a public place and whether on land or water); or
 - (b) in the air in view of persons being or passing in or on any street or public place; or
- (c) contained in any document gratuitously sent or delivered to any person or thrown or left upon premises in the occupation of any person; or
- (d) broadcast by wireless transmission or by television; or
- (e) made verbally.

88. Nothing in this Division of this Part of this Act shall apply to ferry bookstalls in respect of the sale of books, magazines, periodicals and newspapers.

No. 43, 1962
Division
not to apply
to sale of
books, etc.,
at ferry
bookstalls.
cf. Act No.
39, 1912,
s. 112.

89. In cases of emergency caused by disease, or fire, tempest, flood or other calamity, the Minister may by notice published in the Gazette suspend the operation of such provisions of this Division of this Part of this Act as he deems necessary in respect of any persons, class of persons, shops, classes of shops, warehouses, or classes of warehouses, for such period within such locality, and under and subject to the performance of such conditions as he may impose, and in like manner may alter or annul such order of suspension.

Power of
suspension
in certain
cases.
cf. *Ibid.*
s. 113.

Any person who contravenes any condition imposed under this section shall be guilty of an offence against this Act.

90. No person shall be convicted for an offence against this Act for not closing or for not keeping closed a shop or warehouse if he proves that the shop or warehouse was not closed or not kept closed only for the purposes of—

Defences.
cf. *Ibid.*
s. 114.

- (a) persons visiting or resorting to the premises for purposes other than for purposes of or connected with trade in the shop or warehouse or the inspection of goods; or
- (b) customers referred to in the proviso to subsection two or four of section eighty-six of this Act; or
- (c) in the case of a registered pharmacist, or of the occupier of a warehouse wherein drugs or medicines (including patent or proprietary medicines) or surgical appliances are sold or offered or exposed for sale, persons entering or leaving in connection only with the supply of any such drugs or medicines which are urgently required for medicinal purposes, or of any surgical appliances which are urgently required for surgical purposes; or
- (d) in the case of a retail butcher, persons entering or leaving only in connection with the delivery of meat to the shop of such butcher.

91.

No. 43, 1962 **91.** Where a shopkeeper or occupier leases to any other person, or enters into an agreement by which any other person occupies his shop or warehouse, or any part thereof, for a term or period less than one week, he shall, notwithstanding such lease or agreement, continue to be the shopkeeper of the shop or the occupier of the warehouse, as the case may be, for the purposes of this Act.

Leases of shops and warehouses. cf. Act No. 39, 1912, s. 115.

DIVISION 4.—Automatic Vending Devices.

Definitions. **92.** In this Division of this Part of this Act—

“Automatic vending device” means any automatic machine or mechanical contrivance in which goods are offered or exposed for sale by retail.

“Owner”, in relation to an automatic vending device, includes owner, mortgagee in possession, lessee, hirer or borrower thereof.

Registration of automatic vending devices. cf. *Ibid.* s. 127. **93.** (1) The owner of any automatic vending device shall, before the device is put to use for the purpose of offering goods for sale by retail, register the same with the Under Secretary in the manner prescribed. The prescribed fee shall be payable in respect of any such registration.

(2) The owner of any automatic vending device which is not registered as required by this section, and the occupier of any premises in or upon which an automatic vending device not so registered is situated shall be guilty of an offence against this Act.

(3) Where the owner of any automatic vending device ceases to be the owner thereof he shall within fourteen days of so ceasing serve on the Under Secretary a written notice of the change of ownership and if no such notice is served as aforesaid the person who fails to give such notice shall be deemed to be the owner of such automatic vending device and shall be subject to the provisions of this Act relating to the same.

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94. Where an automatic vending device other than an automatic vending device in which motor spirit or motor oil is or are offered or exposed for sale in any area is not kept closed at a time when shops of the corresponding class, situated in that area, are required by or under this Act to be kept closed, the owner of the device and the occupier of any premises in or upon which the same is situated shall be guilty of an offence against this Act. "Shops of the corresponding class" means shops of the class in which goods of the kind offered or exposed for sale in the device are usually the subject of trade.

Trading hours for automatic vending devices.

DIVISION 5.—Day Baking.

95. This Division of this Part of this Act shall not apply within the County of Cumberland or County of Northumberland or any district to which the Bread Industry Act, 1946, as amended by subsequent Acts, applies—

Application of Division. cf. Act No. 39, 1912, s. 118.

- (a) to or in respect of any person exercising the trade or calling of a baker, whether an employer of labour or not, or any person employed in such trade or calling, who in either such County or in any such district makes or bakes bread for trade or sale;
- (b) to any person being a baker or seller of bread, whether an employer of labour or not, or an employee or person acting for or on behalf of a baker or seller of bread or any contractor for the delivery of bread who delivers by vehicle or other receptacle any bread in either such County or in any such district.

96. Any person exercising the trade or calling of a baker or pastrycook, whether an employer of labour or not, or any person employed in such trade or calling, who in any area makes or bakes for trade or sale any bread or pastry before the time that may be fixed by a State award for the time being in force in such area for the commencement of the ordinary hours of work by employees engaged in the making or baking of bread or pastry or after the time that may be so fixed for the cessation of the ordinary hours of work by employees so engaged, shall be guilty of an offence against this Act.

Manufacture of bread, etc., at certain times prohibited. cf. *Ibid.* s. 119.

97.

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Exemption.
cf. Act No.
39, 1912,
s. 120.

97. The Minister may, in the case of any emergency or unforeseen circumstances, or in order to meet the exigencies of the trade carried on in a particular bakehouse, exempt any person exercising or employed in the trade or calling of a baker or pastrycook from the operation of all or any of the provisions of section ninety-six of this Act for such period and subject to such conditions as the Minister may impose.

Any person who contravenes any conditions imposed pursuant to this section shall be guilty of an offence against this Act.

Delivery of
bread during
certain hours
prohibited.
cf. *Ibid.*
s. 121.

98. (1) Any person being a baker or seller of bread, whether an employer of labour or not, or an employee or person acting for or on behalf of a baker or seller of bread or any contractor for the delivery of bread who delivers in any area by vehicle or other receptacle any bread to a purchaser before the time that may be fixed by a State award for the time being in force for the commencement of the ordinary hours of the delivery of bread by breadcarters in such area or after the time that may be so fixed for the cessation of the ordinary hours of the delivery of bread by breadcarters in such area shall be guilty of an offence against this Act.

(2) This section shall not apply to or in respect of the delivery of bread to a purchaser on the premises of the baker or seller of bread.

DIVISION 6.—*Hours of Work in Furniture Factories.*

Hours of
work in
furniture
factories.
cf. *Ibid.*
s. 49.

99. (1) No person shall in any furniture factory perform or employ, allow, permit or authorise any person whomsoever to perform any work of any nature whether connected with the business of any such factory or not on any day before half-past seven o'clock in the morning or after six o'clock in the afternoon, Monday to Friday inclusive, or on Saturday before half-past seven o'clock in the morning or after one o'clock in the afternoon, or on Sunday at any time whatever.

(2)

(2) In any prosecution for a contravention of this section the occupier of a furniture factory shall be deemed to have permitted a person to work if any person whosoever is proved to have been working in the factory of such occupier during the time when work is prohibited. No. 43, 1962

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

(4) No building or portion of a building or curtilage of a building shall be used as a furniture factory if such building or the curtilage of such building has internal communication with any adjoining premises or provides for ingress or egress otherwise than from a street or public lane.

Where a building, portion of a building or curtilage of a building is used as a furniture factory contrary to this subsection the occupier of the factory shall be guilty of an offence against this Act.

(5) The occupier of a furniture factory shall not use or allow to be used as a sleeping place any portion of such factory.

(6) In any prosecution for an offence under subsection one of this section in respect of any factory, evidence—

- (a) that at any time during which work is prohibited by that subsection, sounds have been heard such as would ordinarily be heard if made by persons engaged in such factory in the usual work therein carried out; and
- (b) that during such time any member of the police force or inspector was refused or could not gain immediate admission to such factory,

shall be prima facie evidence that a person was during such time performing work in the factory.

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(7) In order to meet the exigencies of trade the Minister may by notice in writing to the occupier of a furniture factory suspend the operation of subsection one of this section in relation to that factory for any period not exceeding four weeks.

(8) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Act.

Where the occupier of any factory has been convicted three times for offences under this section the registration of the factory shall be forthwith cancelled by the Under Secretary.

DIVISION 7.—*General.*

Powers of
inspectors.
cf. Act No.
39, 1912,
s. 123.

100. (1) An inspector may—

- (a) enter or demand entrance at any time, by day or night, into any place or premises when he knows or has reasonable cause to believe that any person is exercising therein the trade or calling of a baker or pastrycook, whether as an employer of labour or not or is employed therein in such trade or calling;
- (b) enter or demand entrance at any time, by day or night, into any furniture factory or any place or premises which he has reasonable cause to believe is a furniture factory;
- (c) enter at any reasonable time any shop or warehouse or any place which he has reason to believe is used as a shop or warehouse;
- (d) require the production of the certificate of registration of any shop and inspect, examine and copy the same;
- (e) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Part of this Act are being complied with;
- (f) examine with respect to matters under this Part of this Act, any person employed in or about a shop, warehouse, or furniture factory, or any person whom he finds in any bakehouse or whom he has reasonable cause to believe exercises the trade or calling of a baker or pastrycook, or is employed in such trade or calling.

(2)

(2) The occupier of any furniture factory, or any premises wherein the trade or calling of a baker or pastrycook is being carried on, shall make such provision as may be required by the Minister, by notice in writing served on such occupier, to enable an inspector to effect an entry into such premises or to exercise his powers under this Part of this Act. No. 43, 1962

(3) If the admission of an inspector pursuant to subsection one of this section is refused or unreasonably delayed, such inspector, if accompanied by a member of the police force, may make such entry, as he is authorised under such subsection to make, with such assistance as may be deemed requisite.

(4) Any person who—

- (a) refuses or wilfully delays the admission of any inspector as aforesaid; or
- (b) wilfully obstructs any inspector in the exercise by him of his powers under this Part of this Act; or
- (c) fails to comply with the request of an inspector made under any such power; or
- (d) conceals any person from an inspector or prevents any person from appearing before or being examined by an inspector or attempts so to conceal or prevent any person; or
- (e) fails to make any provision required by the Minister pursuant to subsection two of this section,

shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

(5) This section shall not apply within the County of Cumberland or County of Northumberland or any district to which the Bread Industry Act, 1946, as amended by subsequent Acts, applies, to or in respect of any premises wherein the trade or calling of a baker is being carried on.

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No. 43, 1962 **101.** Nothing in Division 2 or in Division 3 of this Part of this Act shall apply to—

Divisions 2
and 3 not to
apply in
certain
cases.

cf. Act No.
39, 1912,
s. 122.

- (a) railway or tramway refreshment rooms or railway or tramway bookstalls; or
- (b) any premises in respect of which a publican's license is in force, by reason only of the sale or exposing or offering for sale, in or upon those premises, of liquor as defined by the Liquor Act, 1912, as amended by subsequent Acts, or of meals or refreshments; or
- (c) any bazaar or fair where goods are sold or exposed for sale in order that the net proceeds of the sale of goods may be devoted to religious, charitable, or public purposes only; or
- (d) any agricultural, pastoral or horticultural society's show approved by the Minister, or any trade exhibition or trade fair so approved.

Regulations. **102.** The Governor may make regulations not inconsistent with this Part of this Act—

cf. *Ibid.*
s. 128.

- (a) prescribing the nature, method of construction, and requisites of partitions to partition off goods in a shop, and the manner in which the same shall be maintained and secured;
- (b) prescribing in respect of any class of shops what trade shall, for the purposes of this Part of this Act, be deemed to be that usually carried on in such class of shops, and providing that such trade, and no other, shall be deemed to be the trade usually carried on in such class of shops.

PART

PART V.

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TOBACCO LICENSES.

103. (1) In this section "license" means tobacco license issued under this section.

Tobacco,
etc., not to
be sold
without
license.

(2) Any person who sells, offers for sale or exposes for sale, whether by means of an automatic machine or mechanical contrivance or otherwise, any tobacco, cigars or cigarettes when he is not the holder of a license for the time being in force, or otherwise than in accordance with the terms and conditions of a license of which he is the holder, shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

cf. Act No.
39, 1912,
s. 116.

(3) Tobacco licenses having force for one year shall be issued and renewed annually by the Under Secretary on application as prescribed and on payment of a fee of one pound for each license and each renewal thereof.

(4) Licenses may be issued subject to terms and conditions relating to the place or places at which or the circumstances in which tobacco, cigars and cigarettes may be sold.

(5) Any person who sells, offers for sale or exposes for sale any tobacco, cigars or cigarettes and who on demand by an inspector fails to produce for perusal by the inspector a license for the time being in force and of which that person is the holder shall be deemed not to be the holder of a license.

PART VI.

REGULATION OF THE HAIRDRESSING TRADE.

DIVISION 1.—*Preliminary.*

104. In this Part of this Act, unless the context or subject matter otherwise indicates or requires—

Definitions.
cf. *Ibid.*
s. 117A.

"Apprentice" means apprentice within the meaning of the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

"Council"

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“Council” means the Hairdressers Council constituted under this Act.

“Division” means Division of this Part of this Act.

“Hairdresser” means a person engaged in—

- (a) arranging, dressing, curling, waving, cleansing, cutting, trimming, shaving, singeing, bleaching, tinting, colouring or otherwise treating the hair or beard of any person, whether by hand, or by any mechanical or electrical apparatus or appliances; or
- (b) massaging, cleansing or stimulating the scalp, face or neck of any person, whether with the use of cosmetic, antiseptic or similar preparations, or of tonics, lotions, or cream or otherwise; or
- (c) carrying out any beauty treatment on the premises of a hairdresser;

and “hairdressing” shall have a corresponding meaning.

“License” means a license or any renewal thereof issued pursuant to this Part of this Act.

“Licensee” means a person who is the holder of a license.

“Member” means member of the Council.

“Trainee apprentice” means trainee apprentice within the meaning of the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

DIVISION 2.—*Hairdressers Council.*

Constitution
of Council.
cf. Act No.
39, 1912,
s. 117c.

105. (1) (a) There shall be constituted a Hairdressers Council which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the Council by or under this Division.

(b) The Council shall consist of five members appointed by the Governor.

(c) Of the members so appointed—

(i) one shall be the person for the time being holding the office of Under Secretary;

(ii)

(ii) two shall be representatives of the employers in the industry or calling of hairdressing ; No. 43, 1962

(iii) two shall be representatives of the employees in the industry or calling of hairdressing.

(d) The member referred to in subparagraph (i) of paragraph (c) of this subsection shall be the Chairman of the Council.

(e) If the member referred to in subparagraph (i) of paragraph (c) of this subsection is unable to attend any meeting of the Council he may appoint an officer of his Department to attend and act for him at such meeting and for all purposes such officer when so acting shall be deemed to be the Chairman of the Council.

(2) Subject to this Division the members, other than the Chairman, shall hold office for a term of five years and shall be eligible for re-appointment from time to time upon the expiration of their term of office.

(3) Members shall be entitled to receive such remuneration or fees for their services as may be fixed from time to time by the Governor.

Each member shall be entitled to receive travelling expenses at such rate as the Governor may from time to time determine.

(4) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of any member, and a member shall not, in his capacity as a member, be subject to the provisions of any such Act during his term of office.

(5) A member, other than the Chairman, shall be deemed to have vacated his office if he—

(a) dies ;

(b) becomes bankrupt, compounds with his creditors or makes any assignment of his estate for their benefit ;

(c) is a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958 ;

(d)

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- (d) resigns his office by writing under his hand addressed to the Governor; or
(e) is removed from office by the Governor.

(6) On the occurrence of a vacancy in the office of a member, a person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(7) In the case of the illness or absence of a member, other than the Chairman, the Governor may appoint a deputy to act in the place of such member during his illness or absence.

Any deputy appointed under this subsection whilst acting as such deputy shall have the immunities and may exercise and discharge all the powers, authorities, duties and functions of the member in whose place he acts.

(8) For the purposes of exercising and discharging the powers, authorities, duties and functions conferred and imposed on the Council by or under this Division, the Council may, with the approval of the Public Service Board, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(9) Any three members, one of whom shall be the Chairman, shall constitute a quorum for the purposes of any meeting of the Council, and any duly convened meeting at which a quorum is present shall be capable of exercising and performing any of the powers, authorities, duties and functions conferred and imposed on the Council by this Division.

(10) At any meeting of the Council the decision of the majority of the members present and voting at such meeting shall be the decision of the Council.

If at any meeting of the Council the voting on any matter is equal, the Chairman shall have a second or casting vote.

(11) No act or proceeding of the Council shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member.

(12)

(12) The Council shall cause minutes of its proceedings and decisions at formal meetings to be kept. No. 43, 1962

(13) The procedure for the calling of meetings of the Council and for the conduct of business at such meetings shall, subject to this section and to any regulations made under this Act in relation thereto, be as determined by the Council.

(14) The office of a member of the Council shall not for the purposes of the Constitution Act, 1902, or any Act amending or replacing that Act, be deemed to be an office or place of profit under the Crown.

106. (1) The Council shall, in addition to any other powers, authorities, duties and functions conferred or imposed on it by or under this Act, have power to— Functions
of Council.
cf. Act No.
39, 1912,
s. 117D.

- (a) investigate and make recommendations to the Minister in respect of special measures necessary to improve methods of hairdressing, standards of hygiene and sanitary conditions in premises used in connection with the trade or calling of hairdressing;
- (b) recommend to the Minister standards of efficiency necessary for persons engaged in the trade or calling of hairdressing;
- (c) recommend to the Minister measures necessary to regulate and control conditions under which hairdressers may carry on their trade or calling;
- (d) consider and recommend to the Minister any amendment of existing legislation and proposals for future legislation which in its opinion are necessary and desirable in respect of any matters relating to the regulation and control of the hairdressing industry.

(2) The Council shall, when so directed by the Minister, investigate and furnish to the Minister a report and recommendation with respect to any matter relevant to the hairdressing industry which may be referred to the Council by the Minister.

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DIVISION 3.—*Licensing of Hairdressers.*

Exemption
from
application
of Division.
cf. Act No.
39, 1912,
s. 117B.

107. Nothing in this Division shall extend or apply to any legally qualified medical practitioner or nurse or physio-therapist when engaged in the practice of his profession, or an apprentice or a probationer for apprenticeship or trainee apprentice engaged in hairdressing under the direct personal control and supervision of a hairdresser licensed under this Division.

Hairdressers
to be
licensed.
cf. *Ibid.*
s. 117E.

108. (1) No person shall—

- (a) for fee, gain or reward act as a hairdresser unless he is the holder of a hairdresser's license granted under this Division;
- (b) employ, instruct or allow any person not the holder of a license to act for fee, gain or reward as a hairdresser.

(2) An application for a license shall be made to the Under Secretary, shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

(3) A license shall, subject to this Division, remain in force for a period of one year from the date of the issue thereof and may upon payment of the prescribed fee be renewed from time to time for a like period.

Grant,
refusal,
cancellation,
etc., of
licenses.
cf. *Ibid.*
s. 117F.

109. (1) The Under Secretary may—

- (a) grant any application for a license either unconditionally or subject to such terms and conditions as the Under Secretary may impose;
- (b) cancel any license or suspend any license for such period as he may determine;
- (c) during the currency of a license vary the terms and conditions thereof or impose additional terms and conditions therein.

(2) Any applicant for a license or the holder of any license who is dissatisfied with any terms and conditions imposed by the Under Secretary under paragraph (a) of subsection one of this section or with any determination of the Under

Under Secretary under paragraph (b) or (c) of that subsection, as the case may be, may require the Under Secretary to state in writing the grounds for the imposition of such terms and conditions or such cancellation, suspension or variation, as the case may be. No. 43, 1962

The Under Secretary shall forthwith furnish to the applicant or the holder of the license, as the case may be, the statement referred to in this subsection.

(3) Any applicant for or holder of a license who is dissatisfied as aforesaid may appeal against the imposition of any terms and conditions or any such determination to the Industrial Commission of New South Wales. The Industrial Commission of New South Wales shall thereupon determine the matter of the appeal and its determination shall be final and shall be given effect to by the Under Secretary.

110. (1) Any person who applies to be licensed under this Act as a hairdresser shall be entitled to be licensed if the Under Secretary is satisfied that such person has completed the prescribed course of training and passed the prescribed examinations or is otherwise qualified to be licensed. Qualifications for licenses. cf. Act No. 39, 1912, s. 1176.

(2) Any person whose application for a license under this Division is refused by the Under Secretary may appeal to the Industrial Commission of New South Wales. The Industrial Commission of New South Wales shall thereupon determine the matter of the appeal and its determination shall be final and shall be given effect to by the Under Secretary.

DIVISION 4.—*Teachers of the Trade of Hairdressing.*

111. No person shall, for fee, gain or reward, teach or undertake to teach any person the trade or calling of hairdressing. Teachers of trade of hairdressing.

This section shall not apply to or in respect of— cf. *Ibid.* s. 117.

- (a) the teaching of the trade or calling of hairdressing by a hairdresser licensed under Division 3 of this Part of this Act to any person employed by such hairdresser under conditions prescribed by an award made under the

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the Industrial Arbitration Act, 1940, as amended by subsequent Acts, in respect of the trade or calling of hairdressing ;

- (b) any person engaged in the teaching of hairdressing under the direction, control or supervision of the Department of Technical Education.

DIVISION 5.—*General.*

Regulations. **112.** The Governor may make regulations not inconsistent with this Act—
cf. Act No. 39, 1912,
s. 117I.

- (a) requiring licensees to keep records and registers as prescribed ;
- (b) prescribing the fees to be paid on applications for licenses ;
- (c) prescribing the course of training to be completed by applicants for licenses and the qualifications the possession of which shall entitle a person to be licensed ;
- (d) providing for the establishment of a Hairdressers Examination Board ;
- (e) relating to the powers, authorities, duties and functions of the Hairdressers Examination Board ;
- (f) prescribing the fees to be paid for examinations for licenses for hairdressers ;
- (g) relating to any matter the subject of a recommendation made by the Council under paragraphs (a), (b) and (c) of subsection one of section one hundred and six of this Act in so far as such regulations are necessary to give effect to such recommendation and provision with respect to that matter is not made under any other Act or regulations made thereunder.

Offences.
Ibid.
s. 117H.

113. A person who contravenes any of the provisions of this Part of this Act or the terms and conditions of any license shall be guilty of an offence against this Act.

114.

114. An inspector may—

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- (a) enter at any reasonable time any premises or place in which he knows or has reasonable cause to believe any person is acting for fee, gain or reward as a hairdresser; Powers of inspectors.
- (b) require any person so acting to produce his license for examination by the inspector;
- (c) examine with respect to matters under this Part of this Act any person so acting or whom he has reasonable cause to believe to be so acting;
- (d) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Part of this Act are being complied with.

PART VII.

OUTDOOR WORK IN THE CLOTHING TRADES.

115. In this Part of this Act—

Definitions.

- “Clothing” means clothing or wearing apparel, and includes boots, shoes and other footwear.
- “Clothing trades” includes all processes, trades, occupations and callings in the making or manufacture in whole or in part and in the repair and alteration of articles of clothing.
- “Factory” does not include any building or place (whether or not the same is required to be registered as a factory under this Act) in which mechanical power of less than one horse power is used.
- “License” means outdoor worker’s license granted pursuant to this Part of this Act, and “licensee” means the holder of a license.
- “The Registrar” means the industrial registrar or deputy industrial registrar appointed under the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

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Outdoor
workers
in clothing
trades to be
licensed.

cf. Act No.
39, 1912,
ss. 19A-19D.

116. (1) (a) No work in the clothing trades of any description or class which if done or performed in a factory would be covered by any award for the time being in force under any Act or Commonwealth Act relating to industrial arbitration shall be done or performed outside a factory by any person for or on behalf of the occupier of a factory, or any trader who sells such clothing by wholesale or retail, unless such person holds a license.

(b) No occupier of a factory and no such trader shall require, order, cause to be done or performed or contract for the doing or performance outside a factory of any work to which paragraph (a) of this subsection applies by any person who is not the holder of a license.

(2) The Registrar may grant outdoor workers' licenses to any persons who prove to his satisfaction that they are in necessitous circumstances, or that by reason of domestic ties, infirmity, old age, or any other sufficient reason (of which the Registrar shall be the sole judge) they are unable to work in factories.

(3) Application for the issue or renewal of a license shall be made to the Registrar in the form and in the manner prescribed.

(4) Every license shall be in the form prescribed and shall be granted upon such terms and conditions as may be determined by the Registrar, and shall, subject to the provisions of this Act, remain in force for one year from the date thereof, but may be renewed and on each renewal shall take effect for a further period of twelve months.

(5) The Registrar shall notify the industrial union concerned of the grant of a license together with the terms and conditions upon which such license was granted.

(6) Every license shall be held by the licensee subject to the provisions of this Act and shall be delivered up to the Registrar upon demand.

(7)

(7) The Registrar may, if satisfied that a license has been lost, mutilated, or destroyed, issue a duplicate or substitute license. No. 43, 1962

(8) The issue or renewal of a license may be refused—

- (a) unless the applicant satisfies the Registrar that he is in all respects a fit and proper person to hold a license;
- (b) upon proof to the satisfaction of the Registrar of any matter which under this section would be a sufficient reason for suspension or cancellation of a license.

(9) The Registrar shall keep a record of all licensees and shall from time to time alter the entries in such record to the end that it shall be a correct record of the licenses for the time being in force and of the names and addresses and other particulars of the licensees.

(10) A license may be suspended or cancelled by the Registrar on his being satisfied that the licensee is suffering from a communicable disease, or that he is not in all respects a fit and proper person to hold a license, or for any other sufficient reason, of which the Registrar shall be the sole judge.

(11) No licensee shall—

- (a) employ any other person or persons whatsoever in any work in the clothing trades;
- (b) do any work in the clothing trades inside a factory.

(12) The occupier of a factory shall not have at any one time more than one licensed outdoor worker to every ten indoor workers or fraction thereof except with the approval in writing of the Registrar.

A trader who sells clothing by wholesale or retail shall not have at any one time more than the number of licensed outdoor workers determined by the Registrar.

Factories, Shops and Industries Act.

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 ———
 Records.
 cf. Act No.
 39, 1912,
 ss. 16, 17.

117. Every person who, whether as principal, contractor, sub-contractor, 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 its being wholly or partly prepared or manufactured outside a factory as articles of clothing for trade or sale shall keep a record in the prescribed form showing—

- (a) the name of every person to whom such material is issued or given out as aforesaid;
- (b) the place where each such person does or performs work in the preparation or manufacture of clothing from the material;
- (c) the rate of payment in each instance;
- (d) the number of articles and description of work issued or given out in each instance;
- (e) such other particulars as may be prescribed,

and whenever so required at a reasonable time by an inspector shall produce such record for perusal by the inspector.

Such record may be incorporated with any time and wage record required to be kept by any Act other than this Act.

Powers of
 inspectors.
 cf. *Ibid.*

118. An inspector may at any reasonable time enter any premises where any licensee is employed for the purpose of inspecting the license or obtaining information as to the name and address of the employer, and the price or rate paid or to be paid to the licensee for the work performed by him, and for any such purpose may require the production of the license and ask any reasonable questions of the licensee; and every such licensee shall in reply to such questions give such information as he may possess to enable the inspector to carry out the said purpose.

Offences.

119. Any person who contravenes any of the provisions of this Part of this Act shall be guilty of an offence against this Act.

PART

PART VIII.

No. 43, 1962

ADVERTISING AND DESCRIPTION OF GOODS.

DIVISION 1.—*Trade Descriptions.*

120. (1) This Division applies to the goods enumerated in Schedule Four to this Act. Application of Division.

(2) The Governor may, from time to time by proclamation published in the Gazette, amend Schedule Four to this Act by removing any goods therefrom, or adding any goods (which term includes anything that is the subject of trade, manufacture or merchandise) thereto, or otherwise alter or vary the same.

Schedule Four to this Act as from time to time so amended shall be deemed to be Schedule Four to this Act.

121. In this Division and in Schedule Four to this Act, unless the context or subject matter otherwise indicates or requires,— Definitions. cf. Act No. 39, 1912, s. 76.

“Alter,” “append,” and “sell” include cause to be altered, appended, or sold, as the case may be.

“Australia” includes any territory under the authority of the Commonwealth of Australia.

“Bedding” includes mattresses, pillows, bolsters, quilts and cushions, but does not include sheets, pillowslips, blankets, rugs, or other bed-coverings which are not quilted.

“Boots” includes shoes and other footwear.

“Division” means Division of this Part of this Act.

“False trade description” means a trade description which by reason of anything contained therein or omitted therefrom is false or likely to mislead in a material respect as regards the goods to which it is appended, and includes every alteration of a trade description whether by way of addition, effacement, or otherwise, which makes the description false, or likely to mislead in a material respect.

“Label”

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“Label” includes band or ticket.

“Sell” includes exhibit, expose, or have in possession for sale, or for any purpose of advertisement or trade.

“Trade description,” in relation to any goods, means any description, statement, indication, or suggestion, direct or indirect, as to—

- (a) the nature, number, quantity, quality, purity, class, grade, measure, gauge, size, or weight of the goods; or
- (b) the State, country, or place in or at which the goods, or any portions or constituents thereof, were made or produced; or
- (c) the manufacturer or producer of the goods or the person by whom they were selected, packed, graded, or in any way prepared for the market; or
- (d) the mode of manufacturing, producing, selecting, packing, grading or otherwise preparing the goods; or
- (e) the material or ingredients of which the goods are composed or from which they are derived; or
- (f) the goods being the subject of an existing patent, privilege, or copyright;

and includes the use of any figure, word, trade name, trade style, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters.

“Upholstered furniture” means any upholstered settee, upholstered chair, upholstered ottoman, upholstered couch and any other article of furniture which is upholstered in a like manner.

“Wood furniture” means furniture of any of the following descriptions, that is to say, a wardrobe, dressing table, loughboy, bedstead, sideboard, dining table, kitchen table, office table, card table, occasional table,

table, chair, kitchen cabinet and book-case, whether or not the same is so described, and which is made wholly or mainly of wood. No. 43, 1962

122. (1) No person shall sell any goods to which this Division applies unless there is conspicuously appended thereto, or if so prescribed, to any covering, label or thing used in connection therewith, in such manner as is prescribed, a trade description of the prescribed character and relating to the prescribed matters. Trade description to be appended to certain goods. cf. Act No. 39, 1912, s. 77.

Any person who contravenes the provisions of this subsection shall be guilty of an offence against this Act.

(2) The regulations shall not prescribe a trade description which discloses trade secrets of manufacture or preparation, except in any case where, on the ground that the disclosure is necessary for the protection of the health or well-being of the public, the Minister so recommends.

(3) Where the trade description appended to any goods to which this Division applies is contained in any document, card, label or other thing capable of being detached from the goods, the document, card, label, or thing shall be signed by the vendor of the goods or by some person authorised to sign on his behalf, and shall be given to the purchaser at the time of the sale.

If any such document, card, label or thing is not so signed or is not so given to the purchaser of the goods, the vendor of the goods shall be guilty of an offence against this Act.

123. In any prosecution for an offence under this Division— Evidence in prosecutions under this Division.

- (a) production of any document, card, label or thing referred to in subsection three of section one hundred and twenty-two of this Act shall, upon proof that the same was given to the purchaser at the time cf. *Ibid.* s. 77 (3) (b).

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—

time of the sale of the goods the subject of the charge, be conclusive evidence that the goods were sold as goods to which the trade description contained in such document, card, label or thing was appended ; and

- (b) proof that the document, card, label or thing was signed by some person apparently employed at the place of business at which the goods were sold shall be conclusive evidence that the person signing the same was authorised to do so on behalf of the vendor.

False
trade
descriptions.
cf. Act No.
39, 1912,
ss. 79, 82
(2), 83.

124. (1) In this section "goods" means goods to which this Division applies.

(2) Any person who appends any false trade description to goods shall be guilty of an offence against this Act unless he proves that he acted without intent to deceive and without intent to defraud.

(3) Any person who sells any goods to which a false trade description is appended shall be guilty of an offence against this Act unless he proves that—

- (a) having taken all reasonable precautions against committing an offence under this subsection, he had at the time of the commission of the alleged offence no reason to suspect that the trade description was false ; and
- (b) on demand made by or on behalf of the informant he gave all the information in his power with respect to the identity and whereabouts of the person from whom he obtained the goods and the circumstances in which he obtained them.

(4) Nothing in this section shall—

- (a) affect the operation of section one hundred and twenty-three of this Act ;

(b)

- (b) apply to or in respect of the appending of a trade description to any goods by a person being in the ordinary course of his business engaged by another person to append a trade description to those goods. No. 43, 1962

125. (1) In this section "goods" means goods to which this Division applies. Alteration of trade description.

(2) Any person being a manufacturer, dealer, or trader who, except to the extent and in the manner prescribed, alters by effacement or otherwise any trade description which has been appended to goods under or in compliance with any Act or Commonwealth Act shall be guilty of an offence against this Act unless he proves that he acted without intent to deceive and without intent to defraud.

cf. Act No. 39, 1912, ss. 78, 82 (2), 83.

(3) Any person who sells goods when a trade description which has been appended thereto under or in compliance with any Act or Commonwealth Act has been, except to the extent and in the manner prescribed, altered by any person by effacement or otherwise shall be guilty of an offence against this Act unless he proves that he acted without intent to deceive and without intent to defraud.

(4) Nothing in this section shall—

- (a) affect the operation of section one hundred and twenty-three of this Act;
- (b) apply to or in respect of an alteration of a trade description by a person being in the ordinary course of his business engaged by another person to alter that trade description.

126. Any person who—

- (a) being in the ordinary course of his business engaged by another person to append a trade description to any goods to which this Division applies, appends a false trade description to those goods, or

Offence in course of business.
cf. *Ibid.* s. 84.

(b)

Factories, Shops and Industries Act.

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- (b) being in the ordinary course of his business engaged by another person to alter a trade description which has been appended under or in compliance with any Act or Commonwealth Act to any goods to which this Division applies, alters such description by effacement or otherwise, except to the extent and in the manner prescribed,

shall be guilty of an offence against this Act, unless he proves that—

- (i) he was not interested in the goods by way of profit or commission dependent on the sale of the goods; and
- (ii) he took reasonable precautions against committing the offence charged; and
- (iii) he had at the time of the commission of the alleged offence no reason to suspect that the trade description was false, or that the alteration was contrary to this Act, as the case may be; and
- (iv) on demand made by or on behalf of the informant, he gave all the information in his power with respect to the identity and whereabouts of the person on whose behalf the trade description was appended or altered and the circumstances in which he was engaged by that person to append or to alter the same, as the case may be.

Appending
trade
description.
cf. Act No.
39, 1912,
s. 81.

127. For the purposes of sections one hundred and twenty-four, one hundred and twenty-five and one hundred and twenty-six of this Act a trade description shall be deemed to be appended to goods if it is—

- (a) appended to the goods themselves, or to any covering, label, or thing used in connection with the goods; or
- (b) used in any manner likely to lead to the belief that it describes or designates the goods; or
- (c) used, whether in an advertisement or catalogue or otherwise, in any manner in connection with or for the purpose of the sale of the goods,

and

and shall be deemed to be appended to goods or to any covering, label, or thing used in connection with goods if it is woven, impressed, embossed, or otherwise worked into or annexed or affixed to, or is written or printed on the goods, covering, label, or thing, as the case may be. No. 43, 1962

Nothing in this section shall affect the operation of section one hundred and twenty-two of this Act, or of any regulation relating to the manner in which a trade description shall be appended to any goods, covering, label or thing.

128. Any person who falsely represents that any goods to which this Division applies are made by a person holding a Royal Warrant or for the service of Her Majesty or of any Government department or have been tested or inspected by or on behalf of Her Majesty or any Government department, shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds. False representations as to Royal Warrant. cf. Act No. 39, 1912, s. 85.

129. (1) Any person who commits an offence under this Division shall, where no other penalty or punishment is provided, be guilty of an offence against this Act and be liable upon summary conviction to imprisonment for a term not exceeding six months or to a penalty not exceeding fifty pounds for a first offence, and for a second offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than twenty-five pounds and not exceeding one hundred pounds, and for a third or subsequent offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than fifty pounds and not exceeding two hundred pounds, or, where such person is an individual, to both such imprisonment and such penalty. Punishment. cf. *Ibid.* s. 90.

(2) Where a person is convicted of an offence under this Division in respect of the sale of any goods to which any false trade description is appended the court before which he is convicted may, in addition to any penalty or punishment imposed, order that the defendant, within a period to be specified in the order—

(a) refund to the purchaser of the goods an amount equivalent to the purchase money paid in respect thereof; or

(b)

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- (b) supply to the purchaser goods in accordance with the trade description referred to in the charge or, if he is unable to supply such goods, refund an amount equivalent to the purchase money paid in respect of the goods the subject of the charge.

The provisions of section eighty-two of the Justices Act, 1902, as amended by subsequent Acts, shall, mutatis mutandis, apply to and in respect of any amount so ordered to be paid and the persons against whom the order is made.

Power to prohibit carrying on of business by persons convicted of numerous offences.
cf. Act No. 39, 1912, s. 90A.

130. (1) Where any person engaged in the business of selling by retail any goods to which this Division applies has been convicted three times within five years of an offence (whether of the same or different kinds) under this Division the Industrial Commission of New South Wales, upon application made as in this section provided, may, by order, prohibit such person from engaging in such business as aforesaid for such period as the Commission may determine.

(2) An application for an order under this section shall be made by the Minister or by an inspector authorised in that behalf by the Minister.

An authority to make such application purporting to have been signed by the Minister shall be prima facie evidence of such authority without proof of the Minister's signature.

(3) Any person who engages in a business in contravention of an order made under this section shall be guilty of an offence against this Act and be liable to a penalty not exceeding two hundred pounds.

Savings.
cf. *Ibid.*
s. 94.

131. Nothing in this Division shall—

- (a) exempt any person from any action, suit, or other proceeding which might but for the provisions of this Division be brought against him; or
- (b) entitle any person to refuse to make discovery or answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence under this Division; or

(c)

- (c) render liable to prosecution or punishment any servant of a master resident in Australia who bona fide acts in obedience to the instructions of such master and on demand by or on behalf of the informant or by an inspector has given full information as to the identity and whereabouts of his master; or
- (d) affect the operation of Division 2 or 3 of this Part of this Act.

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DIVISION 2.—*Marking of Furniture.*

132. For the purpose of regulating the stamping of furniture manufactured or prepared in or imported into New South Wales the provisions contained in Schedule Five to this Act shall have effect.

Marking of furniture.
cf. Act No. 39, 1912, s. 49A.

The regulations may in respect of any matter relating to the stamping of furniture amend such provisions, and such provisions as from time to time so amended shall be deemed to be Schedule Five to this Act.

DIVISION 3.—*False or Misleading Advertisements.*

- 133.** (1) Any person who publishes or causes to be published any statement which—
- (a) is intended or apparently intended by such person or any other person to promote the sale or disposal of any goods (which term includes anything that is the subject of trade, manufacture or merchandise); and
- (b) is to his knowledge false or misleading in any material particular,

Penalty for publishing or causing to be published any false advertisement to promote the sale of goods.
cf. *Ibid.* s. 97.

shall be guilty of an offence against this Act and be liable on summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months for a first offence, and for a second offence to a penalty not less than twenty-five pounds and not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, and for a third or subsequent offence to a penalty of not less than fifty pounds and not exceeding two hundred

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No. 43, 1962 hundred pounds or to imprisonment for a term not exceeding twelve months, or, where such person is an individual, to both such penalty and such imprisonment.

(2) A statement shall be deemed to be published within the meaning of this section if it is—

- (a) inserted in any newspaper or any other publication printed and published in New South Wales; or
- (b) publicly exhibited—
 - (i) in, on, over or under any building, vehicle or place (whether or not a public place and whether on land or water); or
 - (ii) in the air in view of persons being or passing in or on any street or public place; or
- (c) contained in any document gratuitously sent or delivered to any person or thrown or left upon premises in the occupation of any person; or
- (d) broadcast by wireless transmission or by television;
or
- (e) made verbally.

(3) In any proceedings under this section against any person for publishing any statement aforesaid or causing the same to be published, if it is proved that such statement was false or misleading in any material particular, the person who published the statement or caused the same to be published shall be deemed to have published the same or to have caused the same to be published with knowledge of its falsity or misleading character, as the case may be, unless he proves that having taken all reasonable precautions against committing an offence under this section he had reasonable grounds to believe and did believe that the statement was true and had no reason to suspect that the statement was false or misleading.

(4)

(4) No prosecution shall be instituted against the printer, publisher, or proprietor of any newspaper printed and published in New South Wales or the licensee of any commercial broadcasting station or commercial television station or against any person acting under the authority of the same for the publication in any such newspaper or for the broadcasting by wireless transmission or by television from such station, as the case may be, of any statement in contravention of this section unless—

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- (a) such printer, publisher, proprietor or licensee has been warned by an inspector of the falsity or misleading character of such statement or of any other statement substantially the same as such statement and that the publication thereof is an offence under this section; and
- (b) such printer, publisher, proprietor or licensee has on any one day after the receipt of the warning published or broadcast by wireless transmission or by television or authorised or permitted the publication or broadcasting of such statement or any such other statement in any issue of any newspaper in New South Wales printed or owned by him or from any commercial broadcasting station or commercial television station of which he is the licensee (as the case may be); and
- (c) the consent of the Minister to the prosecution is first obtained.

(5) No prosecution shall be instituted against the seller or distributor of any newspaper for the publication in such newspaper of any statement in contravention of this section unless the consent of the Minister to the prosecution is first obtained.

(6) In this section "newspaper" includes any periodical publication and "licensee", "commercial broadcasting station" and "commercial television station" have the meanings ascribed thereto in the Broadcasting and Television Act, 1942-1961, of the Parliament of the Commonwealth of Australia, or any Act amending or replacing that Act.

(7)

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(7) Notwithstanding any proceedings against any person for an offence under this section (whether resulting in a conviction or otherwise) such person shall remain liable to all civil proceedings in like manner as if the proceedings for an offence had not been taken.

(8) This section shall be read and construed as in aid of and not in derogation from any enactment or law relating to false or misleading advertisements or other statements.

DIVISION 4.—*General.*

Powers of
inspectors.
cf. Act No.
39, 1912,
s. 95.

134. An inspector may at any reasonable time—

- (a) enter any place where any goods to which Division 1 of this Part of this Act applies, or any articles of furniture, are manufactured, prepared, or sold, or any place where he has reason to believe that any such goods or articles are manufactured, prepared, or sold;
- (b) inspect any such goods or articles in such place;
- (c) examine with respect to matters under this Part of this Act any person employed or engaged in such place;
- (d) in any such place take any such goods or articles, whether manufactured or partly manufactured, paying a just price for the same, or take samples of materials used in the manufacture of the same;
- (e) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Part of this Act are being complied with.

Certificate
of analyst.
cf. *Ibid.*
s. 89.

135. In any prosecution for an offence under this Part of this Act, the production of a certificate of the result of any analysis, where such certificate purports to have been signed by the Government Analyst or one of his officers, shall unless the defendant requires such analyst or officer to be called as a witness be prima facie evidence of the facts stated in the certificate without proof of the signature or official character of the person appearing to have signed the same.

PART

PART IX.

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HOME DELIVERIES OF CERTAIN COMMODITIES.

136. In this Part of this Act, unless the context or subject matter otherwise indicates or requires—

Definitions.
cf. Act No.
39, 1912,
s. 103A.

“Home delivery commodities” means groceries, fruit, vegetables, meat, and such other commodities as the Governor may by proclamation published in the Gazette declare to be home delivery commodities.

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

“Shopkeeper” means the occupier of a shop.

137. (1) Every person who becomes a shopkeeper of a shop for the sale of any home delivery commodities shall, at the time of making application for a certificate of registration of such shop under Part IV of this Act, furnish the Under Secretary with such particulars as may be prescribed to enable him to determine whether such person shall be required to deliver or cause to be delivered any such home delivery commodities in accordance with the provisions of this Part of this Act.

Shopkeeper
to furnish
information
as to home
deliveries.
cf. *Ibid.*
s. 103B.

(2) Every applicant for renewal of registration of a shop for the sale of any home delivery commodities under Part IV of this Act shall at the time of making application for such renewal furnish the Under Secretary with such particulars as may be prescribed to enable him to determine whether such applicant shall be required to deliver or cause to be delivered any home delivery commodities in accordance with the provisions of this Part of this Act.

138. (1) (a) The Under Secretary may by notice in writing given to any shopkeeper of a shop for the sale of home delivery commodities require such shopkeeper to deliver or cause to be delivered any such home delivery commodities

Delivery of
commodities
by
shopkeepers.
cf. *Ibid.*
s. 103C.

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No. 43, 1962 commodities to any person at any place within such area and in accordance with such terms and conditions as may be specified in such notice.

Without limiting the generality of the foregoing such terms and conditions may include terms and conditions as to quantities of commodities to be delivered, times of delivery and modes of delivery.

(b) The Under Secretary may give any such notice—

- (i) where he is satisfied that it is reasonably practicable for the shopkeeper to whom the notice is given to deliver or cause to be delivered any home delivery commodities in accordance with the requirements of such notice;
- (ii) notwithstanding the fact that the shopkeeper to whom the notice is given has failed to furnish the prescribed particulars under section one hundred and thirty-seven of this Act.

(c) The Under Secretary may revoke any such notice or suspend any such notice for such period as he may think fit or may vary any terms and conditions of any such notice in such manner as he may determine.

(d) A shopkeeper to whom any such notice has been given shall in the manner prescribed exhibit and keep exhibited such notice and any variation of the terms and conditions thereof in the shop to which such notice relates. The regulations may require the exhibition in the circumstances prescribed of copies of any such notice or variation of the terms and conditions thereof.

(2) Nothing in subsection one of this section shall operate so as to require—

- (a) a shopkeeper of a shop situated within a radius of five miles from the General Post Office, Sydney, to deliver or cause to be delivered any home delivery commodities to any person at any place situated more than one mile (measured by the nearest practicable route) from the shop of such shopkeeper;

(b)

- (b) a shopkeeper of a shop situated within a radius of three miles from the principal post office, Newcastle, to deliver or cause to be delivered home delivery commodities to any person at any place situated more than one mile (measured by the nearest practicable route) from the shop of such shopkeeper;
- (c) a shopkeeper of a shop situated within the County of Cumberland or the County of Northumberland outside the areas referred to in paragraphs (a) and (b) of this subsection, to deliver or cause to be delivered home delivery commodities to any person at any place situated more than two miles (measured by the nearest practicable route) from the shop of such shopkeeper;
- (d) a shopkeeper of a shop situated in any part of the State of New South Wales outside the County of Cumberland or the County of Northumberland, to deliver or cause to be delivered home delivery commodities to any person at any place situated more than three miles (measured by the nearest practicable route) from the shop of such shopkeeper;
- (e) a shopkeeper of a shop to deliver or cause to be delivered home delivery commodities to any person, who, upon tender of delivery, fails to pay the lawful retail price for such commodities upon demand.

(3) In this section—

“Place” includes any house, shop, structure, building, or any land or premises whatsoever and any part of any such place which is separately occupied.

139. (1) Notwithstanding anything elsewhere contained in this Act, the Under Secretary may—

- (a) refuse to register a shop or issue a certificate of registration under Part IV of this Act if the applicant for registration refuses to give an undertaking to deliver

Refusal or cancellation of registration of shops.
cf. Act No. 39, 1912, s. 103D.

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deliver or cause to be delivered any home delivery commodities if required so to do by the Under Secretary pursuant to the provisions of section one hundred and thirty-eight of this Act. Any such undertaking shall be in or to the effect of the prescribed form ;

- (b) refuse to renew the registration or the certificate of registration of any shop, or cancel the certificate of registration or renewal of registration of any shop, if, in his opinion the shopkeeper of such shop has, without reasonable excuse, failed to deliver or cause to be delivered any home delivery commodities when required so to do in accordance with the provisions of this Part of this Act.

(2) Where the Under Secretary in pursuance of the provisions of subsection one of this section refuses to register any shop or issue a certificate of registration of any shop or to renew the registration or the certificate of registration of any shop, or cancels the certificate of registration or renewal of registration of any shop under Part IV of this Act, he shall notify the applicant for registration or renewal of registration or the holder of the certificate of registration or renewal of registration issued in respect of such shop, as the case may be, of the grounds of his decision for such refusal or cancellation.

(3) If any person is dissatisfied with the decision of the Under Secretary in respect of such refusal or cancellation he may appeal against the decision of the Under Secretary to the Industrial Commission of New South Wales. The Industrial Commission of New South Wales shall thereupon determine the matter of the appeal and its determination shall be final and be given effect to by the Under Secretary.

Penalties.
cf. Act No.
39, 1912,
s. 103E.

140. Any person who—

- (a) contravenes any of the provisions of this Part of this Act, or any of the terms and conditions of any notice given to him pursuant to the provisions of section one hundred and thirty-eight of this Act;
- (b)

(b) carries on the business of a shopkeeper of a shop the certificate of registration or renewal of registration of which has been cancelled in pursuance of the provisions of section one hundred and thirty-nine of this Act, or in respect of which registration or renewal thereof or the issue of a certificate of registration or renewal thereof has been refused in pursuance of the provisions of the said section, shall be guilty of an offence against this Act :

Provided that the provisions of paragraph (b) of this section shall not apply to any person who pending determination of an appeal against the decision of the Under Secretary under paragraph (b) of subsection one of section one hundred and thirty-nine of this Act carries on the business of a shopkeeper of a shop in respect of which such appeal has been made.

PART X.

REFRIGERATORS, ICE-CHESTS AND ICE-BOXES.

141. In this Part of this Act "sell" includes exhibit, expose or have in possession for sale, or for any purpose of advertisement or trade, and "sold" has a corresponding meaning.

Definitions.
cf. Act No.
39, 1912,
s. 129.

142. (1) Where a person sells any of the following articles, that is to say, any refrigerator, ice-chest or ice-box, and the article has in it a compartment of a capacity of one and one-half cubic feet or more, such person shall be guilty of an offence against this Act unless the compartment is so constructed or equipped that every door or lid of the compartment can be opened easily from the inside of the compartment when any lock or catch that can be operated from the outside of the compartment is fastened.

Prohibition
on sale of
certain
refrigera-
tors, ice-
chests and
ice-boxes.
cf. *Ibid.*
s. 130.

(2) In any prosecution for an offence against subsection one of this section it shall be a defence if the defendant proves that the refrigerator, ice-chest or ice-box with respect to

No. 43, 1962 to which the offence is alleged to have been committed was manufactured in or imported into New South Wales before the first day of January, one thousand nine hundred and sixty-one; but the defendant shall be liable to pay the costs incurred on behalf of the prosecution unless he has given reasonable notice to the informant that he will rely on such defence.

Powers of
inspectors.
cf. Act No.
39, 1912,
s. 131.

143. An inspector may at any reasonable time—

- (a) enter any place where refrigerators, ice-chests or ice-boxes are sold or where he has reasonable cause to believe that refrigerators, ice-chests or ice-boxes are sold;
- (b) inspect any refrigerators, ice-chests or ice-boxes in such place;
- (c) examine with respect to matters under this Part of this Act any person employed or engaged in such place;
- (d) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Part of this Act are being complied with.

PART XI.

MISCELLANEOUS PROVISIONS.

Regulations. **144.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Without prejudice to the generality of the foregoing power, the Governor may make regulations—

- (a) prescribing forms of notices to be given and of applications, returns, registers and records to be made or kept under this Act, and the particulars to be set forth therein;

(b)

- (b) prescribing such other forms as may be necessary or convenient for the administration of this Act; No. 43, 1962
- (c) requiring the exhibition of certificates, permits and licenses issued pursuant to this Act and of other prescribed documents and regulating the manner of exhibition;
- (d) imposing on prescribed persons or classes of persons the obligation to comply with provisions of the regulations;
- (e) imposing a penalty not exceeding fifty pounds for a contravention of the regulations.

(2) The regulations may—

- (a) make different provision to meet different circumstances;
- (b) exempt persons or classes of persons, either absolutely or subject to conditions, from provisions of the regulations or provide for the grant of such absolute or conditional exemptions by the Chief Inspector or other prescribed person;
- (c) provide that any act or thing required by the regulations to be done shall be done to the satisfaction of the Chief Inspector or other prescribed person;
- (d) adopt wholly or partially either specifically or by reference any of the standard rules, codes or specifications of the Standards Association of Australia, the British Standards Institution or other association or body recognised as an authority in relation to the matters prescribed.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If

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If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part thereof shall thereupon cease to have effect.

Proceedings.
cf. Act No.
39, 1912,
ss. 52, 54,
87.

145. (1) Proceedings for an offence against this Act or the regulations may be taken and prosecuted by—

- (a) an inspector acting with the authority of the Minister, or
- (b) the secretary of an industrial union of employers or employees registered under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, whose members are engaged in the industry concerned :

Provided that proceedings for an offence under Division 1 of Part VIII of this Act may be taken and prosecuted by an inspector or secretary of an industrial union as aforesaid, or by any person whose rights are impaired.

(2) In a prosecution for any such offence, an authority to prosecute, purporting to have been signed by the Minister, shall be prima facie evidence of such authority without proof of the Minister's signature.

(3) All proceedings for offences against this Act or the regulations may be disposed of summarily before a stipendiary magistrate or an industrial magistrate appointed under the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

(4) The provisions of the Industrial Arbitration Act, 1940, and of any Act amending that Act, and the regulations made thereunder relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply mutatis mutandis to proceedings before a stipendiary magistrate or an industrial magistrate for offences against this Act or the regulations.

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(5) The informant may conduct his case himself or by his counsel, attorney or an agent duly authorised by him in writing or, in a case where the informant is an inspector, by an officer of the Department of Labour and Industry.

146. Any order or notice to be served under this Act or the regulations, and any summons to be served in respect of any alleged offence against this Act or the regulations shall be deemed to be duly served upon the occupier or shopkeeper of a factory, warehouse, or shop, if such order, notice, or summons be affixed to the door or some other conspicuous part of the factory, warehouse, or shop.

Service of
order, notice
or summons.
cf. Act No.
39, 1912,
s. 55.

147. (1) Any person who is guilty of an offence against this Act shall, where no other penalty is provided, be liable to a penalty not exceeding one hundred pounds.

Penalty.

(2) Where an occupier of a factory or shop or an employer is convicted of an offence against any of those provisions of Part III of this Act or of any regulations thereunder which relate to the physical state or condition in which any factory, shop, premises or place or any plant, fixture, or equipment therein shall be, or shall be kept or maintained, or to the manner of construction or erection of any building, structure, or part thereof or to the provision of any facilities, equipment, or convenience in any factory, shop, premises, or place, the stipendiary magistrate or industrial magistrate, in addition to or instead of inflicting a penalty, may order certain means to be adopted by such occupier or employer within some time to be named in the order for the purpose of bringing the factory, shop, premises, place, plant, fixture, equipment, building, structure, or part thereof into compliance with the said provisions, or for the purpose of providing the said facilities, equipment, or convenience, as the case may be, 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 said

cf. *Ibid.*
s. 56.

order

No. 43, 1962 order is not complied with, the person so convicted shall be liable to a penalty not exceeding twenty pounds for every day that such non-compliance continues :

Provided that nothing in this subsection shall apply to or in respect of a conviction for an offence against Division 5 of the said Part, or against any such provisions of the regulations as relate to the guarding or fencing of machines or of materials or articles in motion in machines.

(3) Where a person convicted of an offence against this Act or the regulations is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to have committed the like offence and be liable to the pecuniary penalty or imprisonment provided by this Act or the regulations for such offence accordingly, unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

(4) Where an unincorporated association being an employer or being the occupier or shopkeeper of a factory, shop or warehouse is guilty as such employer, occupier, or shopkeeper of an offence against this Act or the regulations, then every person (whether a member of the association or not) who at the time of the commission of the offence was a member of the committee of management or other governing body of the association shall be deemed to have committed that offence and be liable to the penalty provided by this Act or the regulations for such offence accordingly, and in any information laid in respect of the offence may be described as such employer, occupier, or shopkeeper, as the case may be.

In this subsection "association" means any association, club or society, however described, but does not include a partnership.

Evidentiary provisions. cf. Act No. 39, 1912, s. 52 (2A). Act No. 38, 1912, s. 21.

148. (1) In a prosecution for an offence against this Act or the regulations a statement purporting to be signed by the Under Secretary—

(a) that a certificate, permit or license of the description specified in the statement has or has not been issued pursuant to this Act or the regulations to any person,

or

or in respect of any premises, boiler, or pressure vessel, specified in the statement, and, in the case of a certificate or permit which has been so issued, as to the date of issue of and particulars contained in such certificate or permit; or

- (b) that at any date or during any period specified in the statement a certificate, permit or license of the description specified in the statement issued pursuant to this Act or the regulations to any person, or in respect of any premises, boiler, or pressure vessel specified in the statement was or was not in force or operative; or
- (c) that at any date specified in the statement a notice as to any matter so specified, being a matter of which notice is required by this Act or the regulations to be given to or served on the Under Secretary, had or had not been given to or served on the Under Secretary by any person so specified, and, where a notice has been so given or served, as to the date when it was so given or served and as to particulars contained in such notice; or
- (d) that an automatic vending device specified in the statement was on a date so specified registered pursuant to section ninety-three of this Act and as to particulars contained in the records relating to such registration,

shall be prima facie evidence of the matter contained in such statement without proof of the signature or of the official character of the person by whom the statement purports to have been signed.

(2) In any such prosecution,—

- (a) where a male or female employee is in the opinion of the stipendiary magistrate or industrial magistrate apparently of the age alleged by the informant, it shall lie on the defendant to prove that such employee is not of that age;

(b)

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cf. Act No. 39, 1912, s. 59.

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(b) where the offence is alleged to have been committed in or in relation to a factory or shop situated at an address or location specified in the information and the defendant is proved to have been at the time of the alleged offence a person named as an occupier of a factory or shop in a certificate of registration or renewal of registration issued pursuant to this Act in respect of a factory or shop situated at that address or location and for the time being in force or operative, then the averment of the informant in the information that the defendant was the occupier or shopkeeper of the factory or shop in or in relation to which the offence is alleged to have been committed shall be prima facie evidence of the matter so averred.

Contracting
out.
Act No. 39,
1912, s. 53.

149. No occupier of a factory or shop and no employer shall contract with any employee against any liability under this Act or the regulations.

Power to
revoke or
vary notices,
etc.

150. Any power conferred by or under this Act on any person to give any notice or make any order or grant any exemption shall be deemed to include a power to revoke that notice, order or exemption or to vary or alter the same.

Penalty for
forging
certificate,
etc., and
false
declaration.
Ibid. s. 60.

151. Any person who forges or counterfeits any certificate, permit, or license 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, permit, or license so forged or counterfeited, or who personates any person named in a certificate, permit, or license, or who falsely pretends to be an inspector shall be guilty of an offence against this Act and be liable to imprisonment for a term not exceeding twelve months.

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 in any application for the registration under this Act of any premises

premises as a factory or shop or for a hairdresser's license No. 43, 1962 or in any notice required to be given by him under this Act wilfully makes or signs any false statement, or who knowingly makes use of any false entry or false declaration or return, shall be guilty of an offence against this Act and be liable to a penalty not exceeding one hundred pounds for each offence, or to be imprisoned for a term not exceeding three months.

152. Any person who wilfully destroys, damages, defaces, or pulls down any notice, certificate, permit, license, or other document posted or exhibited in any factory, shop, premises, or place pursuant to this Act or the regulations shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds. Penalty for destroying notices, etc.

SCHEDULES.

SCHEDULE ONE.

Sec. 3.

No. of Act.	Name of Act.	Extent of Repeal.
1912, No. 39 1915, No. 1..	Factories and Shops Act, 1912 .. White Phosphorus Matches Prohibition Act, 1915.	The whole. The words " This definition shall be inserted at the end of section three of the Factories and Shops Act, 1912 " in section two. Section five.
1927, No. 12	Factories and Shops (Amendment) Act, 1927.	The whole.
1931, No. 55	Factories and Shops (Amendment) Act, 1931.	The whole.
1935, No. 11	Factories and Shops (Amendment) Act, 1935.	The whole.
1936, No. 37	Factories and Shops (Amendment) Act, 1936.	The whole.
1937, No. 35	Statute Law Revision Act, 1937 ..	So much of Second Schedule as amends Act No. 39, 1912.
1901, No. 5	Police Offences Act, 1901	Sections sixteen and sixty-one.
1902, No. 50	Butchers' Shops Sunday Closing Act, 1902.	The whole.
1916, No. 19	Sunday Trading (Refreshment Rooms) Act, 1916.	The whole.

SCHEDULE

No. of Act.	Name of Act.	Extent of Repeal.
1941, No. 34	Factories and Shops (Amendment) Act, 1941.	The whole.
1941, No. 42	Factories and Shops (Further Amendment) Act, 1941.	The whole.
1943, No. 16	Factories and Shops (Amendment) Act, 1943.	The whole.
1946, No. 17	Factories and Shops (Amendment) Act, 1946.	The whole.
1946, No. 40	Bread Industry Act, 1946	The matter relating to Part IV in section two. Part IV.
1948, No. 12	Factories and Shops (Home Deliveries) Amendment Act, 1948.	The whole.
1950, No. 21	Factories and Shops (Hairdressers) Amendment Act, 1950.	The whole.
1954, No. 42	Factories and Shops (Amendment) Act, 1954.	The whole.
1956, No. 31	Factories and Shops (Amendment) Act, 1956.	The whole.
1957, No. 23	Industrial Arbitration (Amendment) Act, 1957.	Section one, subsection three. Section three.
1958, No. 8..	Bread Industry, Manufacture and Delivery (Amendment) Act, 1958.	Section one, subsection four. Section four.
1960, No. 17	Factories and Shops and Local Government (Amendment) Act, 1960.	Section one, subsection two. Section two.

Secs. 11
and 76.
cf. Act No.
39, 1912,
Schedule
Four.

SCHEDULE TWO.

The registration fees to be paid in respect of factories and shops shall be:—

	£	s.	d.
For every factory or shop in which—			
no person is employed or one or two persons are employed	1	0	0
three or four persons are employed	2	0	0
more than four and not more than ten persons are employed	5	0	0
more than ten and not more than twenty persons are employed	8	0	0
more than twenty and not more than thirty persons are employed	10	0	0
more than thirty and not more than fifty persons are employed	15	0	0
more than fifty and not more than one hundred persons are employed	30	0	0

SCHEDULE

SCHEDULE TWO—*continued.*

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Where more than one hundred persons are employed in a factory or shop the registration fee to be paid in respect of that factory or shop shall be an amount of £30 plus an additional amount of £15 in respect of every additional fifty persons or fraction of fifty persons employed in that factory or shop.

For the purposes of calculating the registration fee payable in respect of—

- (a) any factory, all persons other than the occupier of the factory who are wholly or partly employed in the factory in any work, or who are wholly or partly engaged outside the factory in any manufacturing process in connection with the business of the factory for or on behalf of the occupier of the factory, shall be regarded as persons employed in the factory ;
- (b) any shop, all persons other than the occupier of the shop who are wholly or partly engaged in the shop in the retail business thereof shall be regarded as persons employed in the shop:

In this Schedule "occupier" means the person, partnership, association, or corporation employing persons in the factory or shop, or occupying the factory or shop.

SCHEDULE THREE.

Cake and pastry shops.
Chemists' shops.
Confectioners' shops.
Cooked provision shops.
Fish shops.
Flower shops.
Fruit and vegetable shops.
Newsagencies.
Refreshment shops.
Restaurants.
Tobacconists' shops.

Secs. 80, 85.
Act No. 39,
1912,
Schedule
Eight.

SCHEDULE

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SCHEDULE FOUR.

Sec. 120.

Goods to which Division 1 of Part VIII of this Act applies.

Bedding.

Upholstered furniture.

Wood furniture.

Boots.

Trunks, kit bags, suit-cases and similar travel goods; attache cases, school bags, hat cases, ladies' handbags, shopping bags, purses, wallets and pouches; document cases, folio cases and similar articles; musical instrument cases, wireless cases and gramophone cases; razor strops; footballs, punching balls, boxing gloves, cricket gear and golf bags and similar sporting goods; leggings; men's belts; leather gloves; bicycle saddles; harness, saddles, horse collars, bridles and machine belting, where the greater part of the area of the outside or covering is composed of—

- (a) leather or a material resembling leather in texture or appearance, or
- (b) fibre or vulcanite or a material resembling fibre or vulcanite in texture or appearance, or
- (c) plastic.

Bales, packages or lots of filling materials of all kinds for bedding and upholstered furniture, in the possession or under the control of manufacturers or wholesalers of such goods or their agents.

Brooms containing any millet fibre.

Toys.

Sec. 132.
cf. Act No.
39, 1912,
Schedule
Five.

SCHEDULE FIVE.*Marking of Furniture.*

1. All furniture manufactured or sent out of any factory shall be legibly and permanently stamped.

2. All furniture manufactured or prepared either wholly or partly in New South Wales shall as soon as it has been so nearly completed as to permit the stamp being placed on it, and before it is sent out or removed from the building, premises, or place in which it is so manufactured or prepared, and all furniture imported into New South Wales shall be legibly and permanently stamped with a stamp of an indelible permanent ink, or stain, or impression.

SCHEDULE

SCHEDULE FIVE—*continued.*

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3. Such stamp shall set forth in legible type the distinguishing number or letter or combination of same (herein called the maker's mark) assigned by the Chief Inspector to each manufacturer of furniture corresponding with the true name and address of such manufacturer, as appearing in a register made and kept by the Chief Inspector for the purpose. If such furniture was only partly manufactured or prepared by such manufacturer, the words "partly prepared by" shall be stamped above the maker's mark of such manufacture.

4. Such stamp shall be placed on some part of such furniture, and on each movable part thereof where it can be clearly and easily seen and read at a distance of not less than five feet. A drawer shall not, for the purposes of this clause, be deemed to be a movable part of furniture.

5. Every occupier of a factory or shop who delivers or causes to be delivered to a purchaser any new furniture which is not stamped pursuant to this Schedule shall be guilty of an offence against this Act.

6. All furniture imported into New South Wales for the purpose of sale shall be stamped by the importer or consignee or buyer for the purposes of re-sale thereof within forty-eight hours after such furniture has been unpacked, with a stamp on such furniture in accordance with this Schedule.

7. The provisions of this Act with regard to the stamping of furniture shall not be deemed to be complied with in the case of wardrobes, sideboards, tables, washstands, bookcases, cabinets, hall stands, hall seats, dinner waggons, bedsteads, chairs, seats, church altars, cupboards, pedestals, meat safes, chiffoniers, kitchen dressers, chests of drawers and commodes unless each of the letters with which such articles are stamped is at least one-half of an inch long by one-eighth of an inch wide and, where the regulations prescribe the manner of such stamping of such articles, unless such articles are stamped in the manner prescribed.

8. Every person who—

- (a) wholly or partly manufactures or prepares furniture and who fails or omits to cause such furniture to be stamped as in this Schedule provided; or

SCHEDULE

- (b) exposes for sale or sells or delivers after sale or lets on hire any furniture wholly manufactured or prepared by persons other than himself or his immediate employees and stamps the same with his own stamp; or
- (c) on any furniture wholly or partly made by persons other than himself or his immediate employees places a stamp implying or stating that such furniture was made by himself only; or
- (d) falsely stamps any furniture; or
- (e) exposes for sale or sells or offers for sale or delivers after sale or lets on hire any furniture which is not stamped pursuant to this Schedule or which he knows to be falsely stamped; or
- (f) removes or obliterates or obscures or erases from or alters or adds to or attempts to remove or obliterate or obscure or erase from or alter or add to any stamp on any furniture—

shall be guilty of an offence against this Act.

9. Every occupier of a factory or shop, and the agents and servants of such occupier 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 Schedule.

Every person who contravenes the provisions of this clause shall be guilty of an offence against this Act and be liable to a penalty not exceeding fifty pounds.

10. Any person who offers for sale or offers to let on hire any article of furniture shall show the stamp referred to in this Schedule to any person seeking to purchase or hire any article of furniture.

11. The secretary of a registered industrial union of employers or employees in the furniture industry or an officer authorised by him in writing shall, in relation to factories wherein furniture is wholly or partly manufactured or repaired, shops wherein furniture is sold or offered or exposed for sale, parts of such factories or shops, and premises and places which such secretary or officer has reasonable cause to believe to be used as such factories or shops, have the like powers as are conferred upon an inspector by paragraphs (a) and (b) of subsection one of section seventy-three of this Act.

SCHEDULE

Factories, Shops and Industries Act.

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SCHEDULE FIVE—*continued.*

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12. Where the regulations prescribe the position in which any stamp referred to in this Schedule shall be placed on furniture or any type of furniture, such stamp shall be placed in the position so prescribed.

13. Furniture manufactured in or imported into New South Wales before the commencement of this Act and which is stamped pursuant to and in accordance with Schedule Five to the Factories and Shops Act, 1912-1960, shall be deemed to be stamped pursuant to and in accordance with this Schedule.
