

Act No. 39, 1912.

FACTORIES AND
SHOPS.

An Act to consolidate the enactments relating to the supervision and regulation of factories, bakehouses, laundries, dyeworks, and shops; the limitation in certain cases of the hours of working therein; the extension of the liability of employers for injuries suffered by employees in certain cases; the making provision for a minimum wage for certain persons, and for the payment of overtime and tea-money; and for other purposes. [26th November, 1912.]

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

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Factories and Shops Act, 1912," and is divided into Parts and Divisions, as under:—

PART I.—PRELIMINARY—*ss.* 1-2.

PART II.—FACTORIES AND SHOPS—*ss.* 3-62.

DIVISION 1.—*Definitions — Appointments — Registration and inspection—ss.* 3-13.

DIVISION 2.—*Records—ss.* 14-19.

DIVISION 3.—*Sanitary arrangements, &c.—ss.* 20-30.

DIVISION 4.—*Fencing of machinery—Protection from fire—ss.* 31-39.

DIVISION 5.—*Ages of persons employed and certificates—ss.* 40-49.

DIVISION 6.—*Shops—ss.* 50-51.

DIVISION 7.—*Miscellaneous—ss.* 52-62.

PART III.—MINIMUM WAGE, OVERTIME, AND TEA-MONEY—*ss.* 63-74. **2.**

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2. The Acts specified in Schedule One are hereby repealed; but such repeal shall not prejudice or affect the validity or duration of any license, permit, exemption, or authority lawfully granted under any such Act. Repeal and savings.

All proclamations published, notices given, certificates of registration granted, and regulations made under the authority of any Act hereby repealed, and being in force at the passing of this Act, shall be and continue in force hereunder, and shall be deemed to have been published, given, granted, and made respectively under the authority of this Act.

All persons appointed under the Acts hereby repealed, and holding office at the time of the passing of this Act, shall remain in office as if this Act had been in force at the time they were appointed and they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.

All localities declared by the Governor to be districts for the purposes of any Act hereby repealed, and being such district at the time of the passing of this Act, shall be districts for the purposes of this Act, and shall be deemed to have been declared by the Governor under the authority of this Act.

PART II.

FACTORIES AND SHOPS.

DIVISION 1.—*Definitions—Appointment of inspectors—Registration and inspection of factories, and inspection of shops.*

3. In this Part of this Act, unless the context requires another meaning— Interpretation.
60 Vic. No. 37, s. 2.

“Bakehouse” means any place in which any bread, pastry, sweetmeats, or sugar goods are made or baked for sale, and includes any place or room used in connection with the bakehouse for storing such food when baked or to be baked, or any material to be used for the manufacture of such food to be baked. No. 28, 1909, s. 2.

“Child” means any person under the age of fourteen years. 60 Vic. No. 37, s. 2.

“Employee” means any person in the employment of an occupier. *Ibid.*
Any person who works in a factory or shop, whether for wages or not, at any kind of work whatever, shall be deemed to be an employee and to be employed within the meaning of this Part of this Act.

“ Factory ”

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“Factory” means—

60 Vic. No. 37, s. 2.
No. 28, 1909, s. 2(*b*).

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

Ibid. s. 2 (*c*).

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

60 Vic. No. 37, s. 2.
No. 28, 1909, s. 2(*d*).

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

Ibid. s. 2 (*e*).

60 Vic. No. 37, s. 2.

(d) any bakehouse,

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

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

Ibid.

“Inspector” means an inspector of factories and shops, appointed under this Part of this Act.

No. 28, 1909, s. 2(*f*).

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

Ibid.

“Mill-gearing” includes any shaft, whether upright, oblique, or horizontal, and any wheel, drum, pulley, belt, rope, or chain by which the motion of the first moving power is communicated to the operative part of any machine.

60 Vic. No. 37, s. 2.

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

No. 28, 1909, s. 2(*g*).

For the purposes of any structural alteration or building additions required by this Part of this Act to be made to a factory or shop, the Minister may, by notice in the form prescribed, notify the owner of the factory or shop, or the

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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 thereafter the said owner or person shall, for the said purposes, be deemed to be the occupier of the factory or shop.

“Prescribed” means prescribed by this Part of this Act or regulations under this Part of this Act. 60 Vic. No. 37, s. 2.

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

“Shopkeeper” means the occupier of a shop. Ibid.

4. (1) This Part of this Act shall apply only to such localities as are declared or deemed to be declared by the Governor, by proclamation in the Gazette, to be a district or districts for the purposes of this Part of this Act. Act to apply only to declared districts. Ibid. s. 3.

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

(3) The Governor may, by proclamation as aforesaid, revoke, vary, or alter any proclamation published, or deemed to have been published, under this section.

5. The Governor may appoint as many inspectors of factories and shops as may appear necessary for carrying into effect the provisions of this Part of this Act. Appointment of inspectors. Ibid. s. 4.

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

(2) Every person in occupation of, or about to occupy, any premises which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall, not less than seven days before it is so used or again used as a factory, forward to the inspector of the district, or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice may register the premises and issue a certificate of registration to the person giving such notice. Ibid. s. 6. No. 28, 1909, s. 3. (2)

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No. 28, 1909, s. 3.

(2) The inspector or such other person as aforesaid may, if he thinks fit, instead of registering the premises, issue a permit authorising the use of the premises for a period to be named in such permit pending the carrying out of any alterations or repairs required in order to make such premises suitable for a factory. Such permit may, from time to time, be extended by the Minister.

Penalty for occupation of unregistered factory.
Ibid. s. 4.

7. Any person in occupation of an unregistered factory within a district to which at the time of such occupation the provisions of this Part of this Act or of the Factories and Shops Act of 1896, have for a period of at least twenty-eight days been applied shall be liable to a penalty not exceeding ten pounds unless he proves that he had duly applied within the prescribed time for the registration of the factory, and had taken all proper measures to obtain the registration of the factory and that such application had not been refused, or that he is the holder of a permit under this Part of this Act authorising him to occupy the factory.

Notification by inspector of defects in building.
Ibid. s. 4.

8. (1) If, in the opinion of an inspector, any office, building, or place used or about to be used as a factory, is unfit for such purpose, he shall, by notice in writing, served on the occupier or the applicant for registration of the factory, personally or posted to his last known address, request such occupier or applicant to comply with such requirements specified in such notice as he may deem necessary to render such office, building, or place fit for occupation as a factory.

Appeal to Minister.

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

Determination of appeal.

(3) The Minister may forthwith determine the appeal, or may appoint a competent person to hold an investigation in such manner and under such conditions as the Minister may approve as to the necessity for, or reasonableness of, the inspector's requirements, and to report to him and make a recommendation as to whether such requirements, or any one or portion of any one of them, should be carried into effect.

Order by Minister on appeal.

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

(5) Where an inspector reports that in his opinion no requirements that may be specified will, by reason of structural difficulties, sanitary defects, or otherwise, fit any office, building, or place for use as a factory, he shall so report to the Minister, and the Minister may thereupon take such action as hereinbefore referred to, and make an order forbidding the use of the said office, building, or place as a factory or such other order as he may think fit.

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9. Every inspector shall have power—

Powers of inspectors.
60 Vic. No. 37, s. 7.
No. 28, 1909, s. 5.

- (1) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, or any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;
- (2) to take with him in either case an officer of health or inspector of nuisances, 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;
- (3) to require the production of the certificate of registration of any factory, or any book, notice, record, list, or document which is by this Part of this Act, or the regulations hereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;
- (4) 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 so far as respects the factory or shop, and the persons employed therein;
- (5) 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 a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined:

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

- (6) subject to this Part of this Act, to conduct prosecutions in connection herewith, whether the information be laid in his name or not, to take proceedings for the punishment of offences against this Part of this Act, and to attend and examine witnesses at any inquest into the cause of the death of any employee while employed in a factory or shop;
- (7) to exercise all other powers that may be necessary for carrying out the provisions of this Part of this Act, or of such provisions of any Act relating to public health as the Governor may from time to time determine.

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

Occupiers to allow entry and inspection.
60 Vic. No. 37, s. 8.

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Obstructing an
inspector.
60 Vic. No. 37, s. 9.

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

Inspector to produce
certificate of
appointment.
Ibid. s. 10.

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

Penalty for forging
certificate, &c.
Ibid. s. 11.

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

DIVISION 2.—*Records.*

Records to be kept.
Ibid. s. 12.
No. 28, 1909, s. 6.

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

A copy of the Act,
regulations, &c., to
be posted up in
factories.

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

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

Scale of wages and
piecwork to be
furnished to the
Minister on demand.
60 Vic. No. 37, s. 13.

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

Record of outside
work.
Ibid. s. 14.

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

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

(2)

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

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

17. 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 being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale, shall be deemed to be the occupier of a factory for the purposes of the last preceding section; and the person to whom such material is issued or given out shall, for the purposes of the said section, be deemed to be employed by the occupier in the business of the factory outside such factory.

Occupier for purposes of this section,
60 Vic. No. 57, s. 15.

18. Any inspector who divulges the contents of any record or makes use of his knowledge of the contents thereof, except to the Minister or for the purposes of this 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 liable to a penalty not exceeding fifty pounds, or to imprisonment with hard labour for any term not exceeding six months.

Inspector not to divulge contents of records.
Ibid. s. 16.

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

Annual report.
Ibid. s. 17.

DIVISION 3.—*Sanitary arrangements, &c.*

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

Factories and shops to be kept clean and well ventilated.
Ibid. s. 18.

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

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

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Painting,
varnishing, and
washing of the
interior of factories.
60 Vic. No. 37, s. 19.

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

Papered walls.

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

Evidence of
lime-washing,
painting, &c.

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

Power to Minister
to exempt certain
factories.

Ibid. s. 20.

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

Exemptions.

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

Bakehouses not
to be used as
sleeping-places.
Ibid. s. 21.

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

- (1) no place on the same level with the bakehouse, and forming part of the same building, shall be used as a sleeping-place unless such sleeping-place is effectually separated from communication with the bakehouse by a partition extending from the floor to the ceiling, and there is an external glazed window in such sleeping place of at least nine superficial feet in area, of which at least four and a half superficial feet are made so as to open for ventilation;

(2)

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- (2) no earth or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse : Privies, &c., not to communicate with bakehouse.
- (3) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet ;
- (4) no drain-pipe for carrying off fœcal or sewage matter shall have an opening within the bakehouse.

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 liable to a penalty not exceeding for the first offence twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds. Penalty for above.

24. The Minister may, by notice in writing, forbid the occupier of a factory to permit any employees therein to take their meals in any room while work is being carried on therein, and may direct an occupier to erect or provide a suitable room or place in the factory or in connection therewith for the purpose of a dining or eating room for employees in such factory. Meals not to be taken in factories in certain cases. 60 Vic. No. 37, s. 22.

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

25. If it appear to the inspector that—

- (a) in a factory where grinding, glazing, or polishing on a wheel, or any other process is carried on whereby dust is generated which is inhaled by the employees to an injurious extent, such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means of ventilation ; or Ventilation, &c., in certain cases. Ibid. s. 23.
- (b) in a factory in which atmospheric humidity is artificially produced by steaming or other mechanical appliances whereby the health of the employees is or may be injuriously affected, such humidity could be to a great extent lessened by the adoption of a sufficient means of prevention ; Humidity by steaming, &c.

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

26. (1) Every occupier of a factory or shop shall cause to be provided suitable sitting accommodation for all females employed in his factory or shop in the proportion of one seat to every three females employed, and such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided. Sitting accommodation for females. Ibid. s. 24. No. 28, 1909, s. 7.

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

Dressing-rooms for females.
No. 28, 1909, s. 8.

27. Where, in the opinion of the Minister, a change of the dress of any females employed in a factory or shop is rendered necessary by the work to be done, or is desirable for the comfort of such employees, the occupier of such factory or shop shall, at the request in writing of the Minister on or before the date fixed in such request, provide suitable dressing-rooms for such employees, under a penalty not exceeding one pound for each day such room is not provided after the day fixed for so doing.

Avoidance of infection.
Ibid., s. 9.

28. Every occupier of a factory or shop 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 liable to a penalty not exceeding twenty pounds, 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 become aware of it.

Premises in connection with factory to be open to inspection.
Ibid.

29. Where in connection with any factory any employees are lodged in any premises in the possession of the occupier of the factory, whether attached to or detached from such factory, all such premises shall be open to inspection by an inspector, and in respect thereof he may exercise all the powers as to sanitary requirements which he is entitled to exercise in respect of the factory.

Nuisances, &c., punishable under other Acts to be notified.
Ibid.

30. Where it appears to an inspector that any act, neglect, or default, in relation to any drain, water-closet, privy, ashpit, water supply, nuisance, or other matter in, about, or in the vicinity of a factory is punishable, or that the consequences of such act, neglect, or default are remediable under any law relating to the public health or any other law, but not under this Part of this Act, such inspector shall give notice in writing to the authority generally administering the Act, or the local authority in whose district the factory is situate, and it shall be the duty of such authority to make such inquiry into the subject of the notice, and take such action thereon as to such authority may seem proper for the purpose of enforcing or carrying out the law.

DIVISION 4.—*The fencing of machinery and protection from fire.*

Traversing carriage of self-acting machine.
60 Vic. No. 37, s. 26.

31. The traversing carriage of any self-acting machine, erected after the first day of January, one thousand eight hundred and ninety-seven, shall not be allowed to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is likely to pass, whether in the course of his employment or otherwise.

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32. In any action brought by an employee in a factory or by his representatives to recover damages from his employer for personal injury caused solely by a boiler explosion arising from the negligent employment of an incompetent person to take charge of a boiler used for driving an engine in connection with the factory, the fact of the injury shall be evidence—

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

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

33. 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—

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

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

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

- (1) the inspector shall serve on the occupier of the factory a written notice to fence the machinery which he considers dangerous as aforesaid;
- (2) the occupier within seven days from the receipt of such notice may serve on the inspector a written requisition to refer the matter to arbitration, and, thereupon, the matter shall be referred to arbitration, to be conducted under the regulations;

(3)

Liability of employer for injury caused by act or default of person in charge of boiler.
60 Vic. No. 37, s. 27.

Dangerous machinery.
Ibid. s. 28.
No. 28, 1909, s. 19.

Safeguards from machinery to be provided.
60 Vic. No. 37, s. 29.

- (3) if the arbitrators or their umpire decide that it is unnecessary or impracticable to fence the machinery alleged in the notice to be dangerous, the notice shall be cancelled and the occupier shall not be required to fence in pursuance thereof, and the costs of the reference shall be paid as the expenses of the inspector under this Part of this Act;
- (4) if the occupier does not within the said seven days serve on the inspector a requisition to refer the matter to arbitration, or does not appoint an arbitrator within the time required by the regulations, or if the arbitrators or the umpire decide that it is necessary and practicable to fence the machinery alleged in the notice to be dangerous, the occupier shall securely fence such machinery in accordance with the notice, or with the award of the arbitrators or umpire, if it modifies the notice, and the cost of the reference shall be borne by either or both parties to the arbitration, as the arbitrators or the umpire may decide, and any portion of the costs to be borne by the occupier shall be a debt due by him to the inspector, and shall be recoverable in any court of competent jurisdiction;
- (5) if the occupier of a factory fails to comply within a reasonable time with the notice or award, or fails to keep the said machinery securely fenced in accordance therewith, or fails to constantly maintain such fencing in an efficient state while the machinery required to be fenced is in motion, the factory shall be deemed not to be kept in conformity with this Part of this Act.

Dangerous
machinery.
60 Vic. No. 37, s. 30.
No. 28, 1909, s. 11.

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

Hoists and lifts to
be protected.
60 Vic. No. 37, s. 31.

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

Unsafe or dangerous
elevator or lift.

(2) If an elevator or lift in a factory or shop used for the conveyance of employees or other persons is considered by an inspector to be unsafe or dangerous to use, he may prohibit the occupier or shopkeeper

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shopkeeper from using such elevator or lift until it is made safe to the inspector's satisfaction. Should any occupier or shopkeeper use, or permit to be used, such elevator or lift at any time whilst its use is so prohibited, he shall be liable to a penalty of twenty shillings for each time such elevator or lift is so used.

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

Restriction on employment of females and males under certain ages.

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

60 Vic. No. 37, s. 32.

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

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

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

Accidents in factories.
Ibid. s. 33.

- (a) causes loss of life to an employee in the factory; or
- (b) causes bodily injury to any employee in the factory, such as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident,—

written notice of the accident shall forthwith be sent to the inspector for the district stating the cause of death or the nature and extent of the injury, as the case may be, and the residence of the person killed or injured, or the place to which he has been removed. The Minister may, if he thinks fit, obtain a report from a legally qualified medical practitioner, or other competent person, upon the nature, extent, and cause of such death or injury.

39. (1) In every factory erected after the sixteenth day of November, one thousand eight hundred and ninety-six, and in which ten or more persons are employed, and in any factory existing on the said day, where the Minister by notice in writing may so require, the main inside and outside doors shall open outwards, and all the doors of every room in a factory in which persons are actually at work, or passages leading to such rooms, or serving as entrances and exits, shall neither be locked, bolted, nor barred during working hours.

Doors to open outwardly.
Ibid. s. 34.
No. 28, 1909, s. 12.

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

Extinguishing fire.

(3)

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Means of escape from fire.

No. 28, 1909, s. 12.

(3) Every factory in which persons are employed above the first floor shall, in addition to the usual fire escapes, distinct from the stairs in ordinary use, be provided, on each floor above the first floor, with means by which persons prevented by flames or smoke from descending by the ordinary ways may be enabled to descend in safety from windows or other openings or by external stairs, ladders, or by such other means as may be deemed sufficient, all such means to be approved in writing by the chief officer of fire brigades, or any officer of fire brigades appointed by him in that behalf.

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

DIVISION 5.—Ages of persons employed in factories and certificates.

No child to be employed.

60 Vic. No. 37, s. 15.

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

Employment of women and young persons may be prohibited in certain cases.

No. 28, 1909, s. 13.

41. The Minister may, by order, prohibit the employment in any factory or class of factory, at or in connection with any machinery described in such 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.

Where in any factory there is a contravention of any such order, the occupier of the factory, who has been served with a copy of such order, shall be deemed to be guilty of an offence against this Part of this Act.

Interval for meals in certain cases.

60 Vic. No. 37, s. 36.

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

Hours of employment may be extended under certain conditions.

Ibid. s. 37.

No. 29, 1908, s. 7.

No. 29, 1909, s. 14.

43. (1) No male under sixteen years of age and no female shall be employed in a factory for more than forty-eight hours in any one week:

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

No such person, however, may be employed overtime on more than three consecutive days, and such overtime shall be paid for at the rate of time and a half. Such payment shall be made at intervals of not more than one month.

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

(2) Notice of having availed himself of the proviso to subsection one of this section shall be given by the occupier of the factory to an inspector or such other person as the Minister may name, within forty-eight hours after the commencement of the working of such overtime, and a copy thereof shall be affixed in the factory within such period. The notice shall be accompanied by a statement signed by the occupier of the facts on which he relies to show that such working was bona fide for the purpose of meeting the exigencies of trade.

Notice of overtime working.
No. 23, 1909, s. 14.

(3) The occupier of a factory shall keep a record each week, in the form and containing the particulars prescribed, of the occasions on which he avails himself of the said proviso.

Record of overtime.
Ibid.

(4) If the Minister is not satisfied that such working was bona fide for the purpose of meeting the exigencies of trade, he shall give notice in writing of his dissatisfaction to the occupier; and unless the occupier within one month from such notice, proves to the satisfaction of the Minister that such working was bona fide for such purpose, the Minister shall direct that a record be made that the working was not bona fide for such purpose.

Working must be to meet exigencies of trade.
Ibid.

(5) If the Minister directs such record to be made in regard to any occupier of a factory three times within any twelve months, such occupier shall not thereafter at any time be entitled to avail himself of the said proviso unless by the special permission of the Minister.

Occupier debarred from using proviso.
Ibid.

(6) If any person contravenes any provision of this section he shall be liable on conviction to a penalty for the first offence not exceeding five pounds, and for any subsequent offence not exceeding twenty pounds.

Penalty.
Ibid.

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

Restriction in certain class of employment.
60 Vic. No. 37, s. 38.

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

Certificate of fitness.
Ibid. s. 39.

(2) A certificate of fitness for the purposes of this Part of this Act may be granted by any legally qualified medical practitioner, and shall be to the effect that he is satisfied by the production of a certificate of birth or other sufficient evidence that the person named

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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.

(3) 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.

(4) 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.

Limitation of
employment for
young persons.

60 Vic. No. 37, s. 40.
No. 28, 1909, s. 15.

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

- (a) in any factory,
- (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 forty-three :

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

Where person
under sixteen
incapacitated
for working
daily.

60 Vic. No. 37, s. 41.

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

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48. No female shall be employed during the four weeks immediately after her confinement. Female not to be employed for four weeks after confinement. 60 Vic. No. 37, s. 42.

49. (1) In any factory where any Chinese works, and in any other factory where any person is employed in preparing or manufacturing articles of furniture, no person shall work, or shall employ or authorise or permit any person whomsoever to work, on any day before half-past seven o'clock in the morning or after six o'clock in the evening, or on a Saturday after one o'clock in the afternoon, or on Sunday at any time whatever; and no portion of a factory used for the purpose of preparing or manufacturing goods or articles for trade or sale shall at any time be used as a sleeping-place. Hours of employment in Chinese and certain other factories. No. 28, 1909, s. 16.

(2) If any person offends against any of the provisions of this section, he shall for each and every day in which he offends be liable on conviction to a penalty for the first offence not exceeding ten pounds, and for a second or subsequent offence not exceeding twenty-five pounds; and the registration of a factory, the occupier of which is convicted under this section of a third offence, shall be forthwith cancelled by the Minister. Penalty.

(3) In any prosecution for an offence against this section, evidence— Evidence.

(a) that at any time during which work is prohibited by this section in any factory, sounds have been heard, such as would ordinarily be heard if made by persons engaged in such factory in the usual work therein carried on; 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 proof that the provisions of this section have been contravened by the defendant.

(4) In order to meet the exigencies of trade the Minister may, subject to the conditions and restrictions imposed in section forty-three, suspend the operation of this section relating to the working hours in any one or more factories for any period not exceeding two months. Suspension of operation of section.

DIVISION 6.—Shops.

50. (1) Except as hereinafter provided, a male under sixteen years of age or a female under eighteen years of age shall not work in or in connection with any shop for a longer time than fifty-two hours in any one week, or for a longer time than nine and a half hours in any one day, except on one day in each week, when eleven and a half hours' work may be done, but such shall not apply to the occupier of a shop or any member of the occupier's family employed in such shop. Limitation of hours of work in certain cases. 60 Vic. No. 37, s. 43.

(2)

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

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

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

(5) The occupier of a shop in which or in connection with which any contravention of this section occurs shall on conviction be liable to a penalty for the first offence of not more than two pounds, and for every subsequent offence of not less than two pounds nor more than five pounds.

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

Governor may make regulations.

60 Vic. No. 37, s. 44.

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

DIVISION 7.—*Miscellaneous.*

No prosecution without authority of Minister.

Ibid. s. 45.

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

No. 38, 1909, s. 17.

(2) In a prosecution for any such breach or contravention, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature.

Occupier not to contract with employees against liability.

60 Vic. No. 37, s. 46.

53. No occupier of a factory or shop shall contract with any employee against any liability under this Part of this Act.

Recovery of penalties.

Ibid. s. 47.

No. 27, 1902 s. 82.

54. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace.

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

Service of order, notice, or summons. 60 Vic. No. 37, s. 48.

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

Penalty for not keeping factory or shop in conformity with this Act. *Ibid.* s. 49.

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

Penalty for employing a person contrary to Act. *Ibid.* s. 50.

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

Parents liable to penalty in certain cases. *Ibid.* s. 51.

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

Proof of age of employees. *Ibid.* s. 52.

60. Any person who forges or counterfeits any certificate for the purposes of this Part of this Act (for the forgery or counterfeiting of

Penalty for forging certificate and false declaration. *Ibid.* s. 53.

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

Exemption of occupier from fine on conviction of the actual offender.
60 Vic. No. 37, s. 54.

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

Governor to have power to make regulations.
Ibid. s. 55.
No. 28, 1909, s. 18.

62. In addition to the powers already conferred, the Governor may, by notice in the Gazette, from time to time, make, alter, and repeal regulations—

- (a) for prescribing forms of notices to be given and returns and records to be made under this Act, and the particulars to be set forth therein ;
- (b) to provide for the increase or reduction of the temperature of any rooms in a factory or shop ;
- (c) to prescribe the precautions to be taken against the risk of accident in a factory, and to impose on certain persons the duty of seeing that such precautions are taken ;
- (d) to require the adequate lighting of any factory or portion thereof ;
- (e) to prescribe the cubical spaces and the amount of ventilation for each person employed in a factory or in a room in a factory, and to prevent the overcrowding of persons so employed ;
- (f) to prescribe the material of the flooring and ceiling of factories ;
- (g) to prescribe the dimensions of dressing rooms in factories or shops ;
- (h)

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- (h) to regulate closet accommodation in factories and shops with regard to situation, design, construction, material, approach, space, and ventilation, as may be necessary for decency or the health and convenience of employees, and to secure proper sanitation ;
- (i) prescribing that separate closet accommodation for members of each sex employed in a factory or shop, and who are not all members of the same family, shall be provided ;
- (j) to compel the supply of sufficient wash-basins and water for the use of employees in factories or shops ;
- (k) to compel the supply of sufficient cold drinking-water for the use of such employees ;
- (l) to compel the fencing of stairways, tanks, vats, and grindstones in factories ;
- (m) extending the provisions of section twenty-four of this Act so as apply to shops or any specified classes of shops ;
- (n) extending the provisions of subsection one of section thirty-nine of this Act, so as to apply to shops or to any specified classes of shops ;
- (o) regulating the construction of doors of exit in any specified classes of shops, and providing for uninterrupted exit by such doors during working hours ;
- (p) generally for carrying into effect the provisions of this Act ;
- (q) imposing any penalty not exceeding twenty pounds for the breach of any regulation made under this section :

Provided that the Minister by notification in the Gazette may exempt any shops or classes of shops from any regulations made under paragraph (i) or paragraph (m) of this section, and may amend or revoke any such notification.

PART III.

MINIMUM WAGE, OVERTIME, AND TEA-MONEY.

63. In this Part of this Act,—

“Employer” means—

- (a) any person for whom a workman or shop-assistant works, and includes any agent, manager, foreman, or other person acting, or apparently acting, in the control of any workman or shop-assistant ;
- (b) any person, company, or association employing persons in a factory, warehouse, or shop, or occupying any office, building, or place used as a factory, warehouse, or shop,
and

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No. 29, 1908, s. 2.

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and includes any agent, manager, foreman, or other person acting, or apparently acting, in the general management or control of a factory, warehouse, or shop.

“Factory” means factory as defined in Part II of this Act.

“Shop-assistant” and “shop” mean respectively shop-assistant and shop as defined by the Acts relating to early closing.

“Workman” means—

(a) any person employed at any handicraft, or in preparing or manufacturing any article for trade or sale, and includes any person employed in a bakehouse, or laundry, or in dye-works, but does not include any inmate of an institution of a charitable nature;

(b) any person who is employed in a factory or who works in a factory at any kind of work whatever.

Definition of overtime.
No. 29, 1908, s. 3.

64. (1) A workman works overtime within the meaning of this Part of this Act when he works more than forty-eight hours in any week or after six o'clock in the evening on any working day.

(2) A shop-assistant works overtime within the meaning of this Part of this Act when he works more than one half-hour after the closing time of the shop in terms of the Acts relating to early closing.

Minimum wage.

Minimum wage.
Ibid. s. 4.

65. No workman or shop-assistant shall be employed unless in the receipt of a weekly wage of at least four shillings, irrespective of any amount earned as overtime.

Whosoever employs any such person in contravention of this section shall be liable to a penalty not exceeding two pounds.

Premium or bonus in certain occupations.
Ibid. s. 5.

66. Whosoever, either directly or indirectly, or by any pretence or device, requires or permits any person to pay or give, or receives from any person any consideration, premium, or bonus for the engaging or employing by him of any female in preparing, working at, dealing with, or manufacturing articles of clothing or wearing apparel for trade or sale shall be liable on conviction to a penalty not exceeding ten pounds; and the person who has paid or given such consideration, premium, or bonus may recover the same in any court of competent jurisdiction from the person who received the same.

Overtime and tea-money.

Minimum overtime pay.
Ibid. s. 6.

67. (1) Where a workman or shop-assistant, being a male under sixteen years of age or a female, works overtime, his employer shall, unless exempted under this section, pay such workman or shop-assistant not less than threepence for every hour or portion of an hour of the overtime worked. Such

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Such overtime shall be paid for at intervals of not more than one month.

(2) Provided that where it is proved to the satisfaction of the Minister that, by reason of the custom or exigencies of any trade or employment, or for other reason, it is desirable to exempt such trade or employment with regard to males under sixteen years of age, either generally or in any particular locality, from the operation of this section, he may grant such exemption for such time as he thinks fit. Payment for overtime.

(3) Provided also that payment for overtime may be claimed either under this section or under section forty-three of this Act.

(4) If any employer fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds. Penalty.

68. Where any workman or shop-assistant, being a male under sixteen years of age or a female, is required by his employer to work overtime on any day, the employer shall on such day pay such workman or shop-assistant a sum of not less than sixpence as tea-money, and if he fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds. Tea-money.
No. 29, 1908, s. 8.

Supplemental.

69. (1) Every employer shall—

- (a) keep a record, in the form prescribed, of overtime worked by such of his workmen or shop-assistants as are males under sixteen years of age or females; Records to be kept by employers.
Ibid. s. 9.
- (b) produce such record and furnish extracts therefrom to an inspector appointed as hereinafter provided when called upon to do so.

(2) If any employer fails to carry out any of the provisions of this section, he shall be liable to a penalty not exceeding ten pounds.

70. (1) An inspector appointed under Part II of this Act may, in addition to the powers thereby conferred on him,— Powers of inspectors under this Act.
Ibid. s. 10.

- (a) at any reasonable hour, by day or night, enter any building, room, or place where he has reasonable cause to believe a workman or shop-assistant is employed;
- (b) examine any workman or shop-assistant, either alone or in the presence of any other person, with respect to any matter dealt with in this Part of this Act, and require him to sign a declaration of the truth of the matters in respect of which he is so examined;
- (c) require the production of and examine and take extracts from any record required by this Part of this Act to be kept.

(2) Any person who obstructs any such inspector in the exercise of his powers under this section, or who by word or act, or by concealing Obstruction of inspector.

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concealing any person, prevents the examination as aforesaid of any workman or shop-assistant, shall be liable to a penalty not exceeding twenty pounds.

Regulations.
No. 29, 1908, s. 11.

71. The Governor may make regulations for carrying out the provisions of this Part of this Act, and prescribing the forms to be used in its administration, and may in such regulations impose any penalty not exceeding ten pounds for any breach of the same.

A copy of such regulations shall be laid before both Houses of Parliament without delay.

Report of contraven-
tion and breaches,
and proceedings in
respect thereof.
Ibid. s. 12.

72. Contraventions or breaches of this Part of this Act, or of the regulations made hereunder, shall be reported to the Minister by inspectors, and no proceedings in respect thereof shall be instituted without the authority of the Minister.

Recovery of
penalties.
Ibid. s. 13.

73. The penalty for any such contravention or breach may be recovered before a stipendiary or police magistrate, or any two justices of the peace in petty sessions: Provided that proceedings for recovering any such penalty must be commenced within three months after such contravention or breach.

Savings.

Savings.
Ibid. s. 14.

74. This part of this Act shall not apply where all the persons employed as workmen and shop-assistants are members of the employer's family, related in the first or second degree by blood or first degree by marriage to the employer.

SCHEDULES.

SCHEDULE ONE.

Reference to Acts.	Short title.
60 Vic. No. 37	Factories and Shops Act of 1896.
Act No. 29, 1908	Minimum Wage Act, 1908.
Act No. 28, 1909	Factories and Shops (Amendment) Act, 1909.

SCHEDULE

Act No. 39, 1912.

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Factories and Shops (No. 2).

SCHEDULE TWO.

Factories in which the employment of persons is restricted.

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

SCHEDULE THREE.

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