

FACTORIES AND SHOPS  
(AMENDMENT) ACT.

Act No. 37, 1936.

An Act to amend the Factories and Shops Act, 1912-1935, and certain other Acts in certain respects; to consolidate and amend the law relating to day baking and early closing of shops; to regulate the times of opening and closing of shops; to provide for the registration of shops and the licensing of hairdressers and tobacconists; to regulate the tuition of persons in the trade of hairdressing; to repeal the Early Closing Act, 1934, the Day Baking Act, 1926, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd July, 1936.]

Edward VIII,  
No. 37, 1936.

**B**E 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:—

**1.** (1) This Act may be cited as the "Factories and Shops (Amendment) Act, 1936."

Short title,  
citation and  
commence-  
ment.

(2) The Factories and Shops Act, 1912-1935, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Factories and Shops Act, 1912-1936.

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

**Factories and Shops (Amendment) Act.**

No. 37, 1936.

Amendment of  
Act No. 39,  
1912.Sec. 3.  
(Defini-  
tions.)**2. The Principal Act is amended—**

- (a) (i) by omitting from section three the definition of "Bakehouse" and by inserting in lieu thereof the following definition:—

"Bakehouse" means any building or place in which any bread, biscuits, cakes (including sponge cakes), confectionery, cereal food for human consumption, pastry, sweetmeats, sugar goods, muffins or 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 food when made or baked or to be made or baked or any material to be used for the manufacture of such food to be made or baked";

- (ii) by omitting from section three the definition of "Factory" and by inserting in lieu thereof the following definition:—

"Factory" means—

- (a) any office building or place in which—

- (i) four or more persons are engaged directly or indirectly in a manufacturing process; or
- (ii) less than four persons are engaged in a manufacturing process and which the Governor declares to be a factory; or
- (iii) one or more persons are employed in a manufacturing process involving mixing, pasting or smelting, in connection with the manufacture or repair of electric accumulators

- accumulators or the use of a compound of lead, or spray painting; or
- (iv) one or more Chinese are engaged in a manufacturing process; or
- (v) steam or any other mechanical power or appliance is used in or in aid of a manufacturing process or in packing goods for transit or in generating water power or any other power; or
- (vi) electricity is generated or mechanically transformed for the supply of heat, light or power; or
- (b) any bakehouse; or
- (c) any laundry or dyeworks in which four or more persons are engaged or in which one or more Chinese 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) any boatbuilding yard or shipbuilding yard or dock or dockyard or ship-repairing yard in which any ship or boat is constructed, reconstructed, repaired, refitted or finished or broken up;

but does not include any building used for the manufacture of dairy produce, or 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.

A place shall not be excluded from the definition of a "factory" by reason only that the place is in the open air.

- (iii) by omitting from the same section the definition of "Furniture" and by inserting in lieu thereof the following definition:—

"Furniture" means articles whether new or second-hand of which wood, wicker, pithcane, bamboo, seagrass, reed-text or metal forms a part and such as are usually made or assembled by cabinetmakers, assemblers, wood-carvers, 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 general scope of the above definition includes billiard tables, sewing machines, wood bedsteads, clock cases, printers' cases, pianos, talking machines, wireless cabinets, incubators, refrigerators, ice chests, wood mantels, and other articles of like description.

- (iv) by omitting from the definition of "Inspector" in the same section the words "of factories and shops, appointed under this Part of this Act" and by inserting in lieu thereof the words "appointed pursuant to this Part of this Act and includes any officer in charge of police in any area who is, for the time being, authorised by the Minister to exercise and perform the powers, authorities, duties and functions of an inspector."

- (v) by inserting after the definition of "Inspector" in the same section the following new definition:—

"Manufacturing process" means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting,

ornamenting, finishing, cleaning, washing, or adapting of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business. No. 37, 1986.

(vi) by inserting after the definition of "Shop-keeper" the following new definitions:—

"Under Secretary" means the Under Secretary of the Department of Labour and Industry.

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

(b) by omitting from subsection (2A) of section four the words "in working at any handicraft or in preparing or manufacturing articles for trade or sale" and by inserting in lieu thereof the words "in a manufacturing process." Sec. 4.  
(Power to declare certain offices, buildings or places to be factories.)

(c) by omitting section five and by inserting in lieu thereof the following section:— Substituted sec. 5.

5. (1) The Governor may under and subject to the Public Service Act, 1902, as amended by subsequent Acts, appoint inspectors for carrying into effect the provisions of this Act. Appointment of inspectors.

(2) The officer in charge of police for the time being in any area 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 be revoked at any time by the Minister.

(d) (i) by omitting from subsection one of section six the words "Chief Inspector of Factories at Sydney" and by inserting in lieu thereof the words "Under Secretary"; Sec. 6.  
(Registration of factories.)

(ii) by omitting from the same section the words "chief inspector" wherever occurring and by inserting in lieu thereof the words "Under Secretary";

(iii) by omitting from subsection four of the same section the words "by the occupier";

(iv) by omitting from the same subsection the word "his" and by inserting in lieu thereof the word "the"; (v)

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- (v) by omitting from subsection five of the same section the words "a copy of the record of employees required to be kept under section fourteen of this Act" and by inserting in lieu thereof the words "the record of employees required to be furnished by section fifteen of this Act (as inserted by the Factories and Shops (Amendment) Act, 1936)";
- (vi) by omitting from subsection twelve of the same section the words "or handicraft";
- (vii) by inserting in subsection thirteen of the same section after the word "registered" where secondly occurring the words "or where there is any extension of the premises constituting the registered factory";
- (viii) by inserting in paragraph (a) of the same subsection after the word "change" the words "or of the extension as the case may be";
- (ix) by omitting from the same subsection the words "or the notification" and by inserting in lieu thereof the words "or extension or of the notification";
- (x) by omitting paragraph (2) of the proviso to subsection fifteen of the same section;
- (xi) by omitting from paragraph (3) of the same proviso the word "inspector" and by inserting in lieu thereof the words "Under Secretary";
- (xii) by omitting from the same paragraph the words "payable on such increased number" and by inserting in lieu thereof the following words: "that would be payable if the factory was opened at the date of such increase in the number of persons employed";
- (xiii) by inserting at the end of the same subsection the following new paragraph:—

For the purpose of calculating the registration fee persons employed in or in connection with the business of the factory and outdoor workers shall be regarded as persons employed in the factory;
- (xiv)

(xiv) by omitting subsection sixteen of the same section; No. 37, 1936.

(xv) by inserting at the end of the same section the following new subsection:—

(19) 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 so registered has been convicted of an offence against Part VI 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.

(e) by omitting from section seven the words “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”;

Sec. 7.  
(Penalty for occupation of unregistered factory.)

(f) by inserting at the end of section fourteen the following paragraph:—

Sec. 14.  
(Records to be kept.)

A change in the usual working hours shall not be made unless the occupier has in the previous week notified the Under Secretary in writing of his intention to make the change and affixed in the factory a written notice of such intention.

(g) by omitting section fifteen and by inserting in lieu thereof the following new section:—

Substituted sec. 15.

15. The occupier of a factory shall furnish to the Under Secretary on or before the thirty-first day of December in each year a record in the prescribed form of employees in the factory during the first week in December in such year.

Occupier to furnish certain returns.

(h) by inserting at the end of subsection one of section sixteen the following new paragraph:—

Sec. 16.  
(Record of outside work.)

(d) the number of articles and description of work issued or given out in each instance.

(i)

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Sec. 19.  
(Annual  
report.)

Sec. 19c.  
(Prohibition  
of employment  
of other persons  
by  
licensed outdoor  
workers.)

New sec.  
19H.

Meaning of  
"factory" in  
Division 2A.

Sec. 20.  
(Factories and  
shops to be  
kept clean  
and well  
ventilated.)

Sec. 23.  
(Special  
provision  
relating to  
bakehouses.)

Sec. 24.  
(Provision  
of dining  
room for  
employees.)

Sec. 31.  
(Traversing  
carriage of  
self-acting  
machines.)

Sec. 34.  
(Safeguards  
from  
dangers.)

New secs.  
36A, 36B,  
and 36C.

Penalty for  
operating  
machine with-  
out guard, etc.  
cf. Act No.  
3677 (1928)  
Vict. s. 61.

(i) by omitting from section nineteen the words "Each inspector" and by inserting in lieu thereof the words "The Under Secretary";

(j) by omitting from paragraph (a) of section 19c the words "save and except members of the licensed outdoor worker's own family";

(k) by inserting in Division 2A after section 19g the following new section:—

19H. In this Division the expression "factory" does not include any office, building or place (whether or not the same is required to be registered as a factory under Division 1 of this Part) in which mechanical power of less than one horse power is used.

(l) by omitting from subsection two of section twenty the words "or handicraft";

(m) by inserting after paragraph four of section twenty-three the following new paragraph:—

(5) such bakehouse shall be maintained in conformity with any standards of sanitation and hygiene which may be prescribed in respect of bakehouses;

(n) by inserting in section twenty-four after the words "dining or eating room" the words "and of a rest room";

(o) by omitting from section thirty-one the words "erected after the first day of January, one thousand eight hundred and ninety-seven";

(p) by inserting in subsection one of section thirty-four after the word "electricity" the words "or by acid or alkaline solutions";

(q) by inserting after section thirty-six the following new sections:—

36A. If any person operates machinery without the guard or fence required by or in pursuance of this Act to be provided for the same or when the guard or fence is removed or not properly



properly adjusted such person and the occupier of the factory shall be severally guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding fifty pounds.

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Where the occupier of a factory is charged with an offence against this Part of this Act by reason of any contravention of the provisions of this section it shall be a sufficient defence if such occupier proves to the satisfaction of the magistrate that he used due diligence to enforce the provisions of this section and that the person operating the machinery committed the offence in question without the knowledge, consent or connivance of such occupier.

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

36B. (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. 3677 (1928), Viet. s. 62.

(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 Part of this Act and shall be liable to a penalty not exceeding fifty pounds.

(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 Part of this Act 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)

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(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 Part of this Act and shall be liable to a penalty not exceeding fifty pounds.

(4) If any maker of a chaff-cutting machine or his agent or any seller of such a 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 Part of this Act to be provided for the same, he shall be guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding twenty pounds.

This subsection shall not apply in respect of the delivery of a second-hand chaff-cutting machine.

Committees.

36c. The Minister may from time to time appoint committees which shall include representatives of employers and employees in any trade or industry for the purpose of investigating, considering and reporting upon conditions of work and means to be adopted for the prevention of accidents in factories.

Sec. 38.  
(Notice of accidents.)

(r) (i) by inserting in paragraph (b) of subsection one of section thirty-eight, after the word "electricity" the words "or to acid or alkaline solutions";

(ii) by omitting from the same section the words "Chief Inspector of Factories" wherever occurring and by inserting in lieu thereof the words "Under Secretary";

Sec. 39.  
(Doors to open outwardly.)

(s) (i) by omitting from subsection one of section thirty-nine the words "erected after the sixteenth day of November, one thousand eight hundred and ninety-six, and"

(ii) by omitting from the same subsection the words "and in any factory existing on the said day, where the Minister by notice in writing may so require";

(iii)

- (iii) by inserting at the end of subsection three of the same section the following new paragraphs:—

The obligation to provide such sufficient means of escape shall be upon the owner of the building in which the factory or shop 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 liable to a penalty not exceeding fifty pounds and to a further penalty not exceeding five pounds for each day during which such default continues.

- (iv) by omitting from subsection five of the same section the word “occupier” and by inserting in lieu thereof the word “owner”;
- (v) by omitting from the same subsection the words “chief inspector” wherever occurring and by inserting in lieu thereof the words “Under Secretary.”
- (t) (i) by inserting in section forty-one after the word “order” where firstly occurring the words “published in the Gazette”;
- (ii) by omitting from the same section the words “who has been served with a copy of such order”;
- (u) (i) by inserting in section forty-three after the word “factory” wherever occurring the words “or shop”;
- (ii) by omitting from subsection one of the same section the word “forty-eight” and by inserting in lieu thereof the word “forty-four”;

Sec. 41.  
(Employment of women and young persons.)

Sec. 43.  
Hours of employment may be extended under certain conditions.)

(iii)

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- (iii) by omitting from the same subsection the word "thirty" and by inserting in lieu thereof the word "twenty-four";
- (iv) by omitting from the same subsection the word "sixty" and by inserting in lieu thereof the word "forty-eight";
- (v) by omitting from the same subsection the words "time and a half" and by inserting in lieu thereof the words "not less than time and a half and any person who is employed overtime shall be paid not less than one shilling and sixpence for tea money in respect of each day upon which he is so employed";

**Sec. 44.**  
(Restriction  
in certain  
class of em-  
ployment.)

- (v) by inserting at the end of section forty-four the following new subsection:—

(2) The Governor may from time to time by proclamation published in the Gazette, amend Schedule Two to this Act by altering any provision therein contained or by adding thereto further provisions relating, in either such case, to—

- (a) the age under which the employment of any person in any factory or part thereof, or at or in connection with any manufacturing process or machine, is prohibited; or
- (b) any factory or part thereof in which, or any manufacturing process or machine, at or in connection with which, the employment of any person under a specified age is prohibited.

Schedule Two as so amended shall be deemed to be Schedule Two to this Act.

**Sec. 45.**  
(Certificate  
of fitness.)

- (w) (i) by omitting from subsection one of section forty-five the words "such classes of factories as may from time to time be determined by regulation" and by inserting in lieu thereof the words "a factory";

(ii)

- (ii) by omitting from subsection two of the same section the words "other sufficient evidence" and by inserting in lieu thereof the words "by such other evidence as may be prescribed";
- (x) by omitting Division 6; No. 37, 1936.  
Division 6. ]  
(Shops.)
- (y) (i) by omitting from section fifty-four the words "a stipendiary or police magistrate or any two or more justices of the peace" and by inserting in lieu thereof the words "an industrial magistrate appointed under the Industrial Arbitration Act, 1912, as amended by subsequent Acts except where otherwise expressly provided"; Sec. 54.  
(Recovery of penalties.)
- (ii) by inserting at the end of section fifty-four the following new subsection:—  
 (2) The provisions of the Industrial Arbitration Act, 1912, 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 for the recovery of any penalty imposed by this Act.
- (z) (i) by omitting from section fifty-six the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds"; Sec. 56.  
(Penalty for not keeping factory or shop in conformity with this Act.)
- (ii) by omitting from the same section the words "The magistrate or justices" and by inserting in lieu thereof the words "The industrial magistrate";
- (aa) by omitting from section sixty-one the words "magistrate or justices" wherever occurring and by inserting in lieu thereof the words "industrial magistrate"; Sec. 61.  
(Exemption of occupier from fine on conviction of actual offender.)
- (bb) by inserting in subsection one of section sixty-two after paragraph (r) the following new paragraphs:—  
 (s) prescribing standards of sanitation and hygiene to be observed in respect of  
 bakehouses; (t)

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(t) prescribing what guards are to be provided on chaff-cutting machines (whether the same are in a factory or not);

Part III.  
(Minimum wage, overtime and tea money.)

(cc) by omitting Part III;

Sec. 76.  
(Definitions.)

(dd) by omitting from the definition of "Inspector" in section seventy-six the words "of factories and shops appointed under" and by inserting in lieu thereof the words "appointed pursuant to";

Schedule Three.

(ee) by omitting Schedule Three.

Further amendment of Act No. 39, 1912.

3. The Principal Act is further amended---

Sec. 1.  
(Division into Parts.)

(a) by inserting at the end of section one the words and figures:—

PART VI.—SHOPS—REGISTRATION AND CLOSING HOURS—DAY BAKING—TOBACCO LICENSES—HAIRDRESSERS' LICENSES—ss. 98-128.

DIVISION 1.—*Preliminary*—ss. 98-100.

DIVISION 2.—*Registration of Shops*—ss. 101-103.

DIVISION 3.—*Opening and Closing Hours of Shops*—ss. 104-115.

DIVISION 4.—*Tobacco Licenses*—s. 116.

DIVISION 5.—*Licensing of Hairdressers*—s. 117.

DIVISION 6.—*Day Baking*—ss. 118-121.

DIVISION 7.—*General*—ss. 122-128.

(b) by inserting after Part V the following new Part:—

PART VI.

SHOPS: REGISTRATION AND CLOSING HOURS—DAY BAKING—TOBACCO LICENCES—HAIRDRESSERS' LICENCES.

DIVISION I.—*Preliminary*.

Definitions.

98. In this Part of this Act, unless the context or subject matter otherwise indicates or requires—  
"Bread" includes bread rolls.

"Close"

“Close” means close to the admission of the public for purposes of trade, and in the case of an automatic machine or mechanical contrivance, means close for the purposes of trade, and words derived therefrom have a corresponding meaning. No. 37, 1936.

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

“Inspector” means an inspector appointed pursuant to Part II of this Act, and includes any officer in charge of police in any area who is, for the time being, authorised by the Minister to exercise and perform the powers, authorities, duties and functions of an inspector.

“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.

“Open” means open to the admission of the public for purposes of trade, and words derived therefrom have a corresponding meaning.

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

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

“Shopping district” means—

- (a) the Metropolitan shopping district, being the area described in the first part of Schedule Seven to this Act;
- (b) the Newcastle shopping district, being the area described in the second part of Schedule Seven to this Act;
- (c) any municipality outside the Metropolitan and Newcastle shopping districts;
- (d)

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- (d) any other area which was, immediately before the commencement of this Act, a country shopping district for the purposes of the Early Closing Act, 1934;
- (e) any other area which is constituted a shopping district in pursuance of the powers conferred by this Act.

“Under Secretary” means the Under Secretary of the Department of Labour and Industry.

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

Power to  
constitute  
new  
shopping  
districts.

99. (1) The Governor may, by proclamation published in the Gazette, constitute any area not at the date of such proclamation, to be a shopping district, and shall, in such proclamation define the boundaries thereof.

(2) The Governor may by proclamation published in the Gazette, revoke any proclamation made under subsection one of this section, or made under the Early Closing Act, 1934, or under any Act repealed by that Act relating to the constitution of a country shopping district, and thereupon the area referred to in the proclamation shall cease to be a shopping district.

Power to  
alter bound-  
aries of  
shopping  
districts

100. (1) The Governor may, by proclamation published in the Gazette, alter the boundaries of any shopping district.

(2) Where any such proclamation relates to the metropolitan shopping district or the Newcastle shopping district, it shall amend Schedule Seven to this Act, and the Schedule as so amended shall be deemed to be Schedule Seven to this Act.

#### DIVISION 2—*Registration of shops.*

Definitions.

101. 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.



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102. (1) (a) Every person who at the commencement of the Factories and Shops (Amendment) Act, 1936, is a shopkeeper of a shop situated in a shopping district, shall, within one month 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 at any time after the commencement of the Factories and Shops (Amendment) Act, 1936, becomes a shopkeeper of a shop situated in a shopping district shall, within fourteen days of entering into occupation of such shop make application to the Under Secretary in the prescribed form for a certificate of registration of the shop.

(c) A separate application shall be made in respect of each shop.

(2) Every such application shall be accompanied by a registration fee of the appropriate amount specified in Schedule Six to this Act.

(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) 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.

AT

(5)

No. 37, 1933.

(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) Every registration or renewal of registration of a shop and every certificate of registration or of renewal issued in respect thereof shall, subject to paragraph (b) of this subsection, remain operative until the thirtieth day of June next following the date thereof.

(b) 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.

(c) Any registration may from time to time be renewed for a period of twelve months from the date of expiry upon application in the form and within the time prescribed, and upon payment of a registration fee of the appropriate amount specified in Schedule Six to this Act.

(d) 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.

(7) The Minister may by notice in writing exempt any shopkeeper from the payment of a registration fee in a case of great hardship or where the shopkeeper is a widow or an old or a physically disabled person, or where the premises occupied by the shopkeeper are registered as a factory.

**Penalty.**

103. Any person who neglects or fails to comply with any of the provisions of this Division of this Part of this Act shall be guilty of an offence against this Part of this Act, and shall be liable upon summary conviction to a penalty not exceeding twenty pounds.

DIVISION

DIVISION 3.—*Opening and closing hours of shops.*

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

Definitions.

“Shop” means place, building, stall, tent, vehicle, boat, or pack in which goods are sold or offered or exposed for sale 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, or corporation occupying a shop, directly or indirectly, as principal, and includes hawkers and pedlers, and also includes a person who continues to be a shopkeeper of a shop under the provisions of section one hundred and fifteen of this Act, but does not include a commercial traveller bona fide engaged in selling goods to a shopkeeper by sample only.

cf. Act No. 40, 1934, s. 4.

105. (1) The closing time fixed by the Early Closing Act, 1934, for any class of shops (other than butchers' shops) in a shopping district and in force immediately before the commencement of this Act, shall be the closing time for such class of shops for the purposes of this Act until a closing time is fixed by this Act for such class of shops in such district.

Closing times for shops, other than butchers' shops, and opening and closing times for butchers' shops.

(2) The opening and closing times fixed by or under the Early Closing Act, 1934, for butchers' shops in a shopping district, and in force immediately before the commencement of this Act, shall be the opening and closing times for butchers' shops for the purposes of this Act, until opening and closing times are fixed by this Act for butchers' shops in such district.

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(3) The closing times for any class of shops, other than butchers' shops, situate in a shopping district whether or not employees are employed therein, shall on each week day be such times as may be fixed by any award made after the commencement of this Act and for the time being in force under the Industrial Arbitration Act, 1912, as amended by subsequent Acts, for the cessation of the ordinary hours of work by employees in such class of shops in such district.

(4) The opening and closing times for butchers' shops situate in a shopping district whether or not employees are employed therein shall on each week day be such times as may be fixed by any award for the time being in force under any Act (Commonwealth or State) relating to industrial arbitration for the commencing and cessation of the ordinary hours of work by employees in butchers' shops in such district.

(5) The closing time for any automatic machine or mechanical contrivance in which goods are offered or exposed for sale by retail in any shopping district shall be such time as may be prescribed.

The regulations may prescribe different times in respect of classes of automatic machines or mechanical contrivances having regard to the type of goods offered or exposed for sale therein.

**Closing time  
of mixed  
shops.**

106. Where a shop in any shopping district has been registered as a shop of a particular class, and the trade carried on therein includes trade usually carried on in a different class of shop the following provisions shall have effect:—

- (a) such shop shall be closed at the closing time applicable in respect of such different class of shop, where the same is earlier than the closing time of the class in which such shop has been registered, unless the goods which are the subject of trade in such different class of shop are partitioned off in the prescribed manner;
- (b) such shop may be kept open until the closing time applicable in respect of such different class of shop, where the same is later than  
the

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the closing time of the class in which such shop has been registered if the goods which are not the subject of trade in such different class of shop are partitioned off in the prescribed manner.

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107. In making any award affecting employees in shops 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 Part of this Act fix—

Matters to be dealt with in awards.

- (a) in the case of shops other than butchers' shops the time for the cessation; and
- (b) in the case of butchers' shops the times for the commencement and cessation,

of the ordinary hours of work by employees in such shops in any shopping district.

108. (1) If any shop (including a butcher's shop) situate within any shopping district is not closed and kept closed for the remainder of the week day at and after the closing time fixed by or under this Act for such day in respect of such shop, or if in any such shop any goods are offered for sale after the said closing time, 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 Part of this Act:

Penalty for not closing shops.  
Act No. 40, 1934, s. 17.

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

(2) Every automatic machine or mechanical contrivance in which goods are offered or exposed for sale by retail in any shopping district, shall be closed and kept closed for the remainder of the week day at and after the closing time prescribed in respect of the class of automatic machines or mechanical contrivances to which such automatic machine or mechanical contrivance belongs.

If

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If any automatic machine or mechanical contrivance is not closed and kept closed as required by this subsection, the owner of such machine or contrivance and the occupier of the premises in or upon which the same is situated shall severally be guilty of an offence against this Act.

Penalty for opening butcher's shop before opening time.

109. If any butcher's shop situate within any shopping district is open on any week day before the opening time fixed by or under this Act for such day in respect of such butcher's shop the shopkeeper of the butcher's shop or any person acting or apparently acting in the management of the shop shall be guilty of an offence against this Part of this Act.

Penalty for work by hairdressers after closing time.

Act No. 40, 1934, s. 30.

110. If in any hairdresser's shop any work is done for any customer after the closing time fixed by or under this Part of this Act for any week day in respect of such hairdresser's shop, the shopkeeper of the hairdresser's shop or any person acting or apparently acting in the management of the hairdresser's shop shall be guilty of an offence against this Part of this Act:

Provided that no such shopkeeper or person shall be guilty of the said offence by reason only that within fifteen minutes after the said closing time 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.

Power to order earlier closing time.

111. (1) Where a shopkeeper of a shop to which the provisions of section one hundred and six of this Act apply has within a period of three years been convicted three times under section one hundred and eight of this Act, the Industrial Commission of New South Wales may order that while occupied by such shopkeeper the closing time of the shop or of any other shop to which the business of such shopkeeper may be transferred shall for such period as the Commission may determine be the earliest closing time applicable to that shop under section one hundred and six of this Act. The closing time so ordered shall during the period so determined be deemed to be the closing time for such shop while so occupied.

(2)

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

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Any such application shall be made as prescribed by regulations made under the Industrial Arbitration Act, 1912, as amended by subsequent Acts.

112. 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.

Division not to apply to sale of books, etc., at ferry bookstalls.

113. In cases of emergency caused by fire, flood, or disease, 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, or shops for such period within such locality, and under and subject to the performance of such conditions as he may prescribe, and in like manner may alter or annul such order of suspension.

Power of suspension in certain cases.

Act No. 40, 1934, s. 32.

Any person who contravenes or fails to comply with any condition prescribed under this section shall be guilty of an offence against this Part of this Act.

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

Defences.

*Ibid.* s. 29.

- (a) ventilation; or
- (b) persons visiting or resorting to the premises for purposes other than for trade in the shop; or
- (c) customers referred to in the proviso to section one hundred and eight of this Act; or
- (d) in the case of a registered pharmacist, persons entering or leaving in connection only with the supply of any drugs or medicines (including patent or proprietary medicines) for medicinal purposes or any surgical appliances which are urgently required; or

(e)

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(e) 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.

Where shop-keeper leases for less than one week.

Act No. 40, 1934, s. 31.

115. Where a shopkeeper leases to any other person, or enters into an agreement by which any other person occupies his shop, 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.

DIVISION 4.—*Tobacco licenses.*

Tobacco licenses.

116. No person shall sell tobacco, cigars or cigarettes unless he shall previously have obtained a license in the prescribed form from the Under Secretary.

Any license granted under the Tobacco Act 1884, and in force immediately before the commencement of this Act, shall be deemed to have been granted under this section.

The annual fee payable for any license granted or deemed to have been granted under this section shall be five shillings.

If any person not being the holder of a license granted or deemed to have been granted under this section shall sell tobacco, cigars or cigarettes he shall be guilty of an offence against this Part of this Act, and shall be liable to a penalty not exceeding twenty pounds.

DIVISION 5.—*Licensing of hairdressers.*

Licenses to teach trade of hairdressing.

117. (1) From and after a day to be appointed by the Governor and notified by proclamation published in the Gazette no person shall for profit or reward teach or undertake to teach any person the trade of hairdressing unless he is the holder of a license under this section.

This subsection shall not apply to or in respect of the employment of any person under conditions prescribed by an award made under the Industrial Arbitration Act, 1912, as amended by subsequent Acts.

(2)



(2) Application for the issue or renewal of a license under this section shall be made to the Hairdressers, &c. (State) Apprenticeship Council constituted under the Industrial Arbitration (Amendment) Act, 1932, as amended by subsequent Acts.

Every such application shall be in the form prescribed shall be lodged with the Under Secretary and shall be accompanied by the prescribed fee.

(3) Every license under this section shall be in the form prescribed and shall be granted upon such terms and conditions (including conditions prohibiting or restricting the taking or acceptance of premiums and restricting the hours of teaching) as may be determined by such Apprenticeship Council and shall, subject to 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.

(4) The issue or renewal of a license under this section may be refused by such Apprenticeship Council unless the applicant or licensee satisfies the Apprenticeship Council that he is in all respects a fit and proper person to hold such license.

The issue or renewal of a license under this section may be refused, and any such license may be cancelled by such Apprenticeship Council—

- (a) on the ground that the premises in or upon which such teaching is carried on are not in all respects suitable for such purpose; or
- (b) for any other sufficient reason.

(5) Any person whose license under this section has been cancelled or whose application for the issue or renewal of a license under this section has been refused by such Apprenticeship Council may appeal against such cancellation or refusal to the Industrial Commission of New South Wales in the manner prescribed by regulations made under the Industrial Arbitration Act, 1912, or under any Act amending that Act, and upon such appeal the Industrial Commission may make such order as it thinks fit.

(6)

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(6) Any person who contravenes or fails to comply with any of the provisions of this section shall be liable on conviction to a penalty not exceeding twenty pounds.

(7) In this section the expression "hairdressing" includes marcel waving, water waving, permanent waving, dyeing and tinting.

DIVISION 6.—*Day baking.*

Construction of Division.

118. This Division of this Part of this Act shall be read with the Bread Act, 1901, as amended by subsequent Acts.

Manufacture of bread, etc., at certain times prohibited.

119. 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 locality makes or bakes for sale any bread or pastry before the time that may be fixed by an award (whether in force at the commencement of this Act or made after such commencement) for the time being in force in such locality under the Industrial Arbitration Act, 1912, as amended by subsequent Acts, for the commencing 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 Part of this Act.

Exemption.

120. The Minister may, in the case of any emergency or unforeseen circumstances, 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 one hundred and nineteen of this Act for a period not exceeding seventy-two hours, subject to such conditions as the Minister may impose.

Delivery of bread during certain hours prohibited.

121. (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 locality by vehicle or other receptacle any bread to a purchaser before the time that may be fixed by an award (whether in force at

at

at the commencement of this Act or made after such commencement) for the time being in force under the Industrial Arbitration Act, 1912, as amended by subsequent Acts, for the commencing of the ordinary hours of work by breadcarters in such locality or after the time that may be so fixed for the cessation of the ordinary hours of work by breadcarters in such locality shall be guilty of an offence against this Part of 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 7.—*General.*

122. 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.

- (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; 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;
- (d) any agricultural, pastoral or horticultural society's show approved by the Minister.

123. (1) An inspector may—

Powers of inspectors.

- (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 pastry-cook, whether as an employer of labour or not or is employed therein in such trade or calling; or
- (b) enter at any reasonable time any shop or any place which he has reason to believe is used as a shop or in which he has reason to believe the trade of hairdressing is carried on; or

(c)

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- (c) require the production of the certificate of registration of any shop and inspect, examine and copy the same; or
- (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; or
- (e) examine with respect to matters under this Part of this Act, any person employed in or about a shop, 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) The occupier of 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 to enable an inspector to effect an entry into such premises or to exercise his powers under this Part of this Act.

(3) If the admission of an inspector into any premises is refused or unreasonably delayed, such inspector, if accompanied by a member of the police force, may enter such premises with such assistance as may be deemed requisite.

(4) Any person who—

- (a) refuses or wilfully delays the admission to any premises of any inspector; 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 a 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)

(e) fails to make any provision required by the Minister pursuant to subsection two of this section,

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shall be guilty of an offence against this Part of this Act.

(5) Every inspector on applying for admission to any such premises shall, if required, produce the certificate of his appointment.

124. Any person who commits an offence against this Part of this Act shall, where no other penalty is provided, be liable upon summary conviction for a first offence to a penalty not less than two pounds and not exceeding five pounds, and for a second or any subsequent offence to a penalty not less than five pounds nor more than twenty pounds.

General  
penalty.

125. No prosecution for an offence which is declared by any provision of Division 3 or Division 6 of this Part of this Act, to be an offence against this Part of this Act shall be commenced after the expiration of two months next after the commission of the offence.

Offences  
under Divi-  
sions 3  
and 6.

126. Where any person carrying on the business of a hairdresser lets any chair or part of his shop to any other person for the purposes of such a business, the person to whom the chair or part of the shop is let shall be deemed to be the employee of the person who lets the same, for the purposes of the Industrial Arbitration Act, 1912, as amended by subsequent Acts, and of any industrial award in force at the commencement of this Act or made after such commencement.

Letting of  
chairs in  
hairdressers'  
shops.

127. (1) The owner of any automatic machine or mechanical contrivance in which goods are offered or exposed for sale by retail in any shopping district shall register such automatic machine or mechanical contrivance with the Under Secretary in the manner prescribed.

Registra-  
tion of  
automatic  
machines or  
mechanical  
contriv-  
ances in  
which goods  
are offered  
for sale.

The prescribed fee shall be payable in respect of any such registration.

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- (2) Such registration shall be effected—
- (a) in the case of an automatic machine or mechanical contrivance which is, at the commencement of this Act, in use for the purpose of offering or exposing goods for sale by retail in any shopping district—within one month after such commencement;
  - (b) in every other case—before the automatic machine or mechanical contrivance is put to use for the purpose of offering or exposing goods for sale by retail in any shopping district.

(3) The owner of any automatic machine or mechanical contrivance in which goods are offered or exposed for sale by retail in any shopping district and which is not registered as required by this section shall be guilty of an offence against this Part of this Act.

(4) The occupier of any premises in or upon which is situated any automatic machine or mechanical contrivance which is required by this section to be registered and which is not so registered shall be guilty of an offence against this Part of this Act.

**Regulations.**

128. (1) The Governor may make regulations not inconsistent with this Part of this Act prescribing all matters which by this Part of 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 Part of this Act, and in particular, and without prejudice to the generality of the foregoing powers, may make regulations—

- (a) prescribing the nature, method of construction, and requisites of partitions to separate parts of 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 purpose 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;

(c)

- (c) prescribing the forms to be used for the purposes of this Part of this Act, and the particulars to be contained therein or in any notice or application required to be given or made by this Act;
- (d) prescribing the records to be kept of persons licensed under this Part of this Act; and providing for the issue of duplicate licenses;
- (e) imposing a penalty of not more than twenty pounds for any breach of such regulations.
  - (2) Such regulations shall—
    - (a) be published in the Gazette;
    - (b) take effect from the date of publication or from a later date to be specified in such regulations; and
    - (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament be 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 such regulations have been laid before such House disallowing any regulation, or part thereof, such regulation or part shall thereupon cease to have effect.

- (c) by inserting after Schedule Five the following new Schedules:—

New Schedules Six and Seven.

**SCHEDULE SIX.**

Sec. 102.

The registration fees to be paid in respect of shops shall be:—

	£	s.	d.
In shops in which no employees are employed .. .. .	0	2	6
In shops in which not more than four persons are employed .. .. .	0	5	0
In shops in which over four and not more than ten persons are employed	0	10	0
In shops in which over ten are employed .. .. .	1	0	0

**SCHEDULE**

## SCHEDULE SEVEN.

## FIRST PART.

*Description of Metropolitan Shopping District.*

The City of Sydney, and the Municipalities of Alexandria, Annandale, Ashfield, Auburn, Balmain, Bankstown, Bexley, Botany, Burwood, Canterbury, Concord, Darlington, Drummoyne, Dundas, Eastwood, Enfield, Ermington and Rydalmere, Erskineville, The Glebe, Granville, Homebush, Hunter's Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Lidcombe, Manly, Marrickville, Mascot, Mosman, Newtown, North Sydney, Paddington, Parramatta, Petersham, Randwick, Redfern, Rockdale, Ryde, St. Peters, Strathfield, Vacluse, Waterloo, Waverley, Willoughby and Woollahra; and all that area, being Port Jackson, its tributaries, bays and inlets: Commencing at mean high-water mark at North Head; and bounded thence by that mean high-water mark to its intersection with the southern prolongation of the eastern boundary of the Municipality of Manly; thence generally by the Harbour boundaries of the following:—Municipality of Manly, the Shire of Warringah and the Municipalities of Ku-ring-gai, Willoughby, Mosman, North Sydney, Lane Cove, Hunter's Hill, Ryde, Ermington and Rydalmere, Parramatta, Granville, Auburn, Lidcombe, Homebush, Concord, Drummoyne, Ashfield, Leichhardt, Balmain, Annandale, The Glebe, The City of Sydney, the Municipalities of Woollahra and Vacluse, to the northernmost point of Inner South Head; thence by a line northerly to North Head, the point of commencement.

## SECOND PART.

*Description of Newcastle Shopping District.*

The municipalities of Newcastle, Adamstown, Carrington, Hamilton, Lambton, Merewether, New Lambton, Plattsburg, Stockton, Wallsend, Waratah, and Wickham.

**Repeals and Savings.**

4. (1) The enactments referred to in the Schedule to this Act are to the extent therein indicated hereby repealed.

(2) All persons appointed under the authority of any Act hereby repealed and holding office immediately before the commencement of this Act shall be deemed to have been appointed under the authority of this Act.

(3) All proclamations, rules, regulations, orders, directions, appointments, licenses and notices made, granted or given and things done under the authority of any enactment repealed by this Act and in force immediately before the commencement of this Act shall be deemed to have been made, granted, given or done under the authority of this Act.

(4)



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(4) The repeal of any enactment by this Act shall not revive anything not in force or existing at the commencement of this Act.

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(5) Nothing in this section shall limit any saving in the Interpretation Act of 1897.

**5. The Scaffolding and Lifts Act, 1912, is amended—**

**Amendment  
of Act No.  
38, 1912.**

- (a) (i) by omitting from subsection three of section fifteen the words "Government Architect" wherever occurring, and by inserting in lieu thereof the word "Minister";
- (ii) by omitting from the same subsection the words "The said architect or person" and by inserting in lieu thereof the words "The Minister or person so deputed."
- (b) by omitting from subsection one of section seventeen the words "Government Architect" wherever occurring, and by inserting in lieu thereof the word "Minister."

**Sec. 15 (3).  
(Appeal  
from  
inspector.)**

**Sec. 17. (1)  
(Certificate  
of crane  
driver.)**

**SCHEDULE.**

**Sec. 4.**

Reference to Acts.	Short Title.	Extent of Repeal.
47 Vic. No. 12 ...	Tobacco Act 1884 ...	Section seven.
Act No. 13, 1926 ...	Day Baking Act, 1926 ...	The Whole.
Act No. 40, 1934 ...	Early Closing Act, 1934 ...	The Whole.

**FARMERS'**