I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 2 *December,* 1925.

New South Wales.

ANNO SEXTO DECIMO

GEORGII V REGIS.

* *

Act No. 16, 1925.

An Act to regulate the hours of work in certain industries, and the payment of overtime; to further regulate the making, varying, and amending of awards and industrial agreements; to amend the Industrial Arbitration Act, 1912, and certain other Acts; to repeal the Eight-hours Act, 1916, and the Eight-hours (Amendment) Act, 1922; and for purposes connected therewith. [Assented to, 16th December, 1925.] BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

R. GREIG,
Chairman of Committees of the Legislative Assembly.

Forty-four Hours Week.

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. (1) This Act may be cited as the "Forty-four Hours Week Act, 1925."

Commencement.

(2) This Act shall come into operation on a day to be fixed by the Governor and notified by proclamation published in the Gazette.

Construction.

(3) This Act shall be read and construed with the Industrial Arbitration Act, 1912, in this Act referred to as the Principal Act, but subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any enactment thereof would but for this subsection have been construed as being in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Division into Parts.

(4) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY, *ss.* 1–5.

PART II.—HOURS IN INDUSTRIES GENERALLY, *ss.* 6–11.

PART III.—SUPPLEMENTAL PROVISIONS, *ss.* 12–15.

Repeal of Act 1916 No. 11, and Act 1922 No. 8.

2. The Eight-hours Act, 1916, and the Eight-hours (Amendment) Act, 1922, are hereby repealed.

Definitions. 1916 No. 11, s. 2.

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

"Agreement" means an industrial agreement and includes an agreement filed under section twelve or section forty-one of the Principal Act.

"Overtime" means—

(a) time worked in excess of the days or hours limited by or under this Act; or

(b)

(b) time worked on any day before the fixed or recognised times of starting or after the fixed or recognised times of leaving off work on such day in any industry or calling or by any class or shift employed in any industry or calling.

4. The Principal Act, and this Act, shall bind the Crown, and be construed as having reference to the direct and all other employees of the Crown. Act to bind Crown. 1916 No. 11, s. 3.

5. This Act shall not apply to the employees referred to in subsections (a) to (d) inclusive of section 24B of the Principal Act. Exemption of rural workers.

PART II.

Hours in Industries Generally.

6. (1) The ordinary working hours in all industries other than coal mining and shipping, with respect to vessels trading beyond the limits of a port, to which the Principal Act applies shall be as prescribed in or under this section, and the following directions shall be observed by the court and the boards in making awards, and by the parties in making agreements— Directions to be observed in awards and agreements. cf. *Ibid.* s. 4.

(a) In all industries subject to the provisions of this section, the number of ordinary working hours of an employee shall not exceed— Industries generally.

(1) eight hours during any consecutive twenty-four hours; or

(2) forty-four hours per week; or

(3) eighty-eight hours in fourteen consecutive days; or

(4) one hundred and thirty-two hours in twenty-one consecutive days; or

(5) one hundred and seventy-six hours in twenty-eight consecutive days.

Where in any industry or calling meal time or crib time is at the commencement of this Act included in the hours of labour by award

award or agreement, or by well established practice in the industry, such meal time or crib time shall be counted as working time.

Where a working period has been fixed by an award or agreement before or after the commencement of this Act, the working period shall not be altered to any of the longer working periods referred to in this section except by agreement or award made by consent.

Where a short day or days or lesser working days than six in each week are adopted by an award or agreement for an employee or class of employees, the time worked on any day may be greater than eight hours per day, in order to allow the above-mentioned hours to be worked during the working period adopted by the award or agreement.

No employee shall be required to work on more than six out of seven consecutive days except in an industry which is subject to an award or agreement providing for shift work, and in which the employee is not required to work more than eleven shifts in twelve consecutive days or except in cases of emergency not under the control of the employer.

(b) The working time of an employee in a shift in underground occupations or occupations in which the conditions as to temperature, ventilation, and lighting are similar to those obtaining in underground occupations, shall not exceed six hours if for four hours of the working time of the shift the temperature of the place where the employee is occupied shall have exceeded eighty-one degrees Fahrenheit thermometer using a wet bulb.

For the purposes of this paragraph any number of employees whose regular time for beginning work is approximately the same and whose

whose regular time of terminating work is approximately the same are to be deemed a shift of employees.

(c) Overtime in any industry may be permitted by the terms of any award or agreement, and shall be paid at a rate to be fixed by the court or the board or by the agreement.

(d) Notwithstanding the terms of any award or agreement from time to time current, the court or board may, by award, or the parties may, by agreement, from time to time, for the purpose of distributing the work available in an industry so as to relieve unemployment or for any other purpose which appears to the court or board or to the parties in the case of an agreement, to be good and sufficient, prohibit or restrict to any extent the working of overtime.

(e) Where in any industry the ordinary time of work is, at the commencement of this Act, fixed by award or agreement or by well established practice in the industry, such time shall not be exceeded after such commencement in respect of such industry.

(f) If the court or board is of opinion that the health of the employees in an industry justifies a reduction of the ordinary working hours in the industry, the court or board may reduce the ordinary working hours fixed by any award or agreement at the commencement of this Act or thereafter in force, or may in any industry reduce the ordinary working hours prescribed in this section.

(2) The ordinary working hours in any industry may be increased beyond those prescribed in this section if the court or board is of opinion that in the public interest such increase shall be allowed.

Existing awards and agreements.

7. (1) Every award or agreement in force at the commencement of this Act shall respectively be deemed to incorporate such of the provisions of section six of this Act as relate to the industry in which the conditions of employment are regulated by the award or agreement.

(2)

Weekly wages not to be reduced. 1920 No. 28, s. 15 (1).

(2) Wages fixed by any such award or agreement, or any award made or agreement entered into after the commencement of this Act, upon a weekly basis shall not be reduced by reason only of any reduction of the ordinary working hours by or under this Act.

Wages at daily rate. *Ibid.* s. 15 (2).

(3) Where the ordinary working hours in an industry are reduced by or under the provisions of this Act, the wages specified in any award or agreement as payable upon a daily or hourly basis shall without any order of the court or variation or amendment of the award or agreement be increased to such amounts as will provide each employee working full time the same amount of wages as he would have received for working full time under the provisions of the award or agreement.

The increase in the rate of wages shall take effect—

(a) in a case in which the court or a board exercises the jurisdiction conferred by paragraph (f) of subsection one of section six of this Act as from the date of the order of the court or board or as from such future date as is specified in the order; and

(b) in other cases as from the date of the commencement of this Act.

Ibid. s. 15 (3).

(4) Any increase in the rate of wages under the last preceding subsection shall be binding and enforceable in the same manner as if the same had been made by an award of the court or a board.

Overtime rates of pay. cf. *Ibid.* s. 17.

8. Rates of pay for hours worked as overtime, or in excess of ordinary working hours in any industry in respect of which overtime or work in excess of ordinary working hours is not prohibited by or under this Act, shall not be fixed by an award or agreement at less than the rates which were paid in the industry at the commencement of this Act either under award or agreement or by well established practice in the industry.

Application to vary terms of existing awards or agreements. *Ibid.* s. 19.

9. Application may be made at any time during the currency of an award or agreement whether made or entered into before or after the commencement of this Act, for such variations or amendments as are necessary to bring it into conformity with or to give effect to the provisions of this Act.

10.

10. Any person making a contract or agreement, express or implied, and whether verbally or in writing, which provides for the working of hours in excess of those prescribed by or under this Act shall be liable to a penalty not exceeding fifty pounds, recoverable in a summary way before a stipendiary or police magistrate or any two justices in petty sessions. Penalty. 1920 No. 28, s. 20.

11. Nothing in this Act shall be a defence to an employer or shall exempt him from any liability in any action or other proceeding brought against him by any person whether an employee or not for the recovery of compensation for injuries or recovery of wages or for any other purpose. Act not to debar proceedings for recovery of compensation for injuries or wages, &c. *Ibid.* s. 21.

PART III.

Supplemental Provisions.

12. Where in any award or order made under any Act of the Parliament of the Commonwealth of Australia or in any industrial agreement made pursuant to any such Act, for any industry to which the Principal Act applies other than coal mining and shipping, with respect to vessels trading beyond the limits of a port, provision is made that the standard or ordinary weekly hours of work or duty of an employee shall not exceed a number stated in the award, order, or agreement greater than forty-four, or where in any such award, order, or agreement expressions of a like significance occur, then in such a case the standard or ordinary hours of work or duty of such employee shall not exceed those prescribed by or under section six of this Act. Hours in certain cases.

13. Where in any award or order made under any Act of the Parliament of the Commonwealth of Australia, or in any industrial agreement made pursuant to any such Act, for any industry to which the Principal Act applies other than coal mining and shipping, with respect to vessels trading beyond the limits Wages in certain cases.

limits of a port a minimum rate of wage at either an hourly, daily, or weekly rate is provided for and the standard or ordinary weekly hours of work or duty of an employee exceed forty-four, then there shall be payable to the employee and paid by the employer in addition to wages at the minimum rate specified in the award, order, or agreement, further wages in accordance with the following scale :—

(a) for every hour worked up to forty-four in any week at the rate ascertained by the formula—

$$\text{MHR} \times \frac{\text{SWH}-44}{44}$$

in which formula MHR represents the minimum hourly rate and SWH represents the standard working hours prescribed in the award, order, or agreement;

(b) for every hour worked in excess of forty-four in any week up to four, at a rate equal to the difference between the minimum hourly rate and any overtime hourly rate provided for in the award, order, or agreement.

Where the award, order, or agreement specifies a minimum daily rate the minimum hourly rate shall be deduced therefrom by the formula—

$$\text{MDR} \times \frac{\text{NWD}}{\text{SWH}}$$

in which MDR represents the minimum daily rate, NWD the number of ordinary working days, and SWH the standard weekly working hours specified in the award, order, or agreement.

Where the award, order, or agreement specifies a minimum weekly rate the minimum hourly rate shall be deduced therefrom by the formula—

$$\frac{\text{MWR}}{\text{SWH}}$$

in which MWR represents the minimum weekly rate, and SWH the standard weekly working hours specified in the award, order, or agreement.

14. Any amount due to an employee under the last preceding section may be recovered as a debt in any court of competent jurisdiction. Recovery.

15. Any employer who refuses to pay to an employee the additional amounts prescribed in section thirteen of this Act shall be liable upon summary conviction to a penalty not exceeding twenty pounds in addition to being liable to pay such additional amounts. Penalty.

In the name and on behalf of His Majesty I assent to this Act.

D. R. S. DE CHAIR,
Governor.

Government House,
Sydney, 16*th December,* 1925.

FORTY-FOUR HOURS WEEK BILL.

SCHEDULE showing the Legislative Assembly's disagreement from and amendments and consequential amendment upon the Legislative Council's amendments referred to in Message of 1*st December*, 1925.

W. S. MOWLE,
Clerk of the Legislative Assembly.

Page 4, clause ~~5~~ **6,** line 2. *Omit* "**custom**" *insert* "practice in the industry"

Page 4, clause ~~5~~ **6,** lines 21 and 22. *Omit* "**or eleven out of twelve**"

Page 7, clause ~~11~~ **12,** lines 21 and 22. *Omit* "**or those industries mentioned in "section 24B of the Principal Act**"

Page 8, clause ~~12~~ **13,** line 1. *After* "Act" *insert* "for any industry to which the "Principal Act applies other than coal mining and shipping, with respect "to vessels trading beyond the limits of a port"

NOTE.—These references are to the Council's reprint of the Assembly's Bill.

FORTY-FOUR HOURS WEEK BILL.

SCHEDULE of Amendments referred to in Message of 18th November, 1925.

Page 3. *Insert* new clause to stand as clause 5.

Page 3, clause ~~5~~ 6, line 16. *After* "coal-mining" *insert* "and shipping, with respect "to vessels trading beyond the limits of a port,"

Page 3, clause ~~5~~ 6. *After* line 31 *insert* new paragraph as follows:—

"(5) one hundred and seventy-six hours in twenty-eight consecutive "days."

"Where in any industry or calling meal time or crib time is at the "commencement of this Act included in the hours of labour by award "or agreement, or by well established custom, such meal time or crib "time shall be counted as working time."

Page 4, clause ~~5~~ 6, line 21. *After* "seven" *insert* "or eleven out of twelve"

Page 4, clause ~~5~~ 6, line 22. *After* "days" *insert* "except in an industry which is "subject to an award or agreement providing for shift work, and in "which the employee is not required to work more than eleven shifts "in twelve consecutive days or except in cases of emergency not under "the control of the employer."

Page 5, clause ~~5~~ 6, line 35. *Omit* "it is essential"

Page 5, clause ~~5~~ 6, line 36. *Omit* "that"

Page 7, clause ~~11~~ 12 *After* line 18, *insert* "for any industry to which the Principal "Act applies other than coal mining and shipping, with respect to "vessels trading beyond the limits of a port, or those industries "mentioned in section 24B of the Principal Act,"

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 1 *October,* 1925.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with Amendments.*

W. L. S. COOPER,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 18*th November,* 1925.

New South Wales.

ANNO SEXTO DECIMO

GEORGII V REGIS.

* *

Act No. , 1925.

An Act to regulate the hours of work in certain industries, and the payment of overtime; to further regulate the making, varying, and amending of awards and industrial agreements; to amend the Industrial Arbitration Act, 1912, and certain other Acts; to repeal the Eight-hours Act, 1916, and the Eight-hours (Amendment) Act, 1922; and for purposes connected therewith.

NOTE.—The words to be *omitted* are *ruled through*; those to be *inserted* are printed in **black letter**.

Forty-four Hours Week.

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.

1. (1) This Act may be cited as the "Forty-four Hours Week Act, 1925." Short title.

(2) This Act shall come into operation on a day to be fixed by the Governor and notified by proclamation published in the Gazette. Commencement.

(3) This Act shall be read and construed with the Industrial Arbitration Act, 1912, in this Act referred to as the Principal Act, but subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any enactment thereof would but for this subsection have been construed as being in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power. Construction.

(4) This Act is divided into Parts as follows:— Division into Parts.

PART I.—PRELIMINARY, *ss.* 1–4.

PART II.—HOURS IN INDUSTRIES GENERALLY, *ss.* 5–10.

PART III.—SUPPLEMENTAL PROVISIONS, *ss.* 11–14.

2. The Eight-hours Act, 1916, and the Eight-hours (Amendment) Act, 1922, are hereby repealed. Repeal of Act 1916 No. 11, and Act 1922 No. 8.

3. In this Act, unless the context otherwise requires,— Definitions. 1916 No. 11, s. 2.

"Agreement" means an industrial agreement and includes an agreement filed under section twelve or section forty-one of the Principal Act.

"Overtime" means—

(a) time worked in excess of the days or hours limited by or under this Act; or

(b)

(b) time worked on any day before the fixed or recognised times of starting or after the fixed or recognised times of leaving off work on such day in any industry or calling or by any class or shift employed in any industry or calling.

4. The Principal Act, and this Act, shall bind the Crown, and be construed as having reference to the direct and all other employees of the Crown.

Act to bind Crown. 1916 No. 11, s. 3.

5. This Act shall not apply to the employees referred to in subsections (a) to (d) inclusive of section 24B of the Principal Act.

PART II.

Hours in Industries Generally.

~~5.~~ **6.** (1) The ordinary working hours in all industries other than coal mining **and shipping, with respect to vessels trading beyond the limits of a port,** to which the Principal Act applies shall be as prescribed in or under this section, and the following directions shall be observed by the court and the boards in making awards, and by the parties in making agreements—

Directions to be observed in awards and agreements. cf. *Ibid.* s. 4.

(a) In all industries subject to the provisions of this section, the number of ordinary working hours of an employee shall not exceed—

Industries generally.

(1) eight hours during any consecutive twenty-four hours; or

(2) forty-four hours per week; or

(3) eighty-eight hours in fourteen consecutive days; or

(4) one hundred and thirty-two hours in twenty-one consecutive days.

(5) one hundred and seventy-six hours in twenty-eight consecutive days.

Where in any industry or calling meal time or crib time is at the commencement of this Act included in the hours of labour by award

award or agreement, or by well established custom, such meal time or crib time shall be counted as working time.

Where a working period has been fixed by an award or agreement before or after the commencement of this Act, the working period shall not be altered to either of the longer working periods referred to in this section except by agreement or award made by consent.

Where a short day or days or lesser working days than six in each week are adopted by an award or agreement for an employee or class of employees, the time worked on any day may be greater than eight hours per day, in order to allow the above-mentioned hours to be worked during the working period adopted by the award or agreement.

No employee shall be required to work on more than six out of seven **or eleven out of twelve** consecutive days **except in an industry which is subject to an award or agreement providing for shift work, and in which the employee is not required to work more than eleven shifts in twelve consecutive days or except in cases of emergency not under the control of the employer.**

(b) The working time of an employee in a shift in underground occupations or occupations in which the conditions as to temperature, ventilation, and lighting are similar to those obtaining in underground occupations, shall not exceed six hours if for four hours of the working time of the shift the temperature of the place where the employee is occupied shall have exceeded eighty-one degrees Fahrenheit thermometer using a wet bulb.

For the purposes of this paragraph any number of employees whose regular time for beginning work is approximately the same and

whose regular time of terminating work is approximately the same are to be deemed a shift of employees.

(c) Overtime in any industry may be permitted by the terms of any award or agreement, and shall be paid at a rate to be fixed by the court or the board or by the agreement.

(d) Notwithstanding the terms of any award or agreement from time to time current, the court or board may, by award, or the parties may, by agreement, from time to time, for the purpose of distributing the work available in an industry so as to relieve unemployment or for any other purpose which appears to the court or board or to the parties in the case of an agreement, to be good and sufficient, prohibit or restrict to any extent the working of overtime.

(e) Where in any industry the ordinary time of work is, at the commencement of this Act, fixed by award or agreement or by well established practice in the industry, such time shall not be exceeded after such commencement in respect of such industry.

(f) If the court or board is of opinion that the health of the employees in an industry justifies a reduction of the ordinary working hours in the industry, the court or board may reduce the ordinary working hours fixed by any award or agreement at the commencement of this Act or thereafter in force, or may in any industry reduce the ordinary working hours prescribed in this section.

(2) The ordinary working hours in any industry may be increased beyond those prescribed in this section if the court or board is of opinion that ~~it is essential~~ in the public interest ~~that~~ such increase shall be allowed.

Existing awards and agreements.

~~6.~~ **7.** (1) Every award or agreement in force at the commencement of this Act shall respectively be deemed to incorporate such of the provisions of section five of this Act as relate to the industry in which the conditions of employment are regulated by the award or agreement.

(2)

(2) Wages fixed by any such award or agreement, or any award made or agreement entered into after the commencement of this Act, upon a weekly basis shall not be reduced by reason only of any reduction of the ordinary working hours by or under this Act. Weekly wages not to be reduced. 1920 No. 28, s. 15 (1).

(3) Where the ordinary working hours in an industry are reduced by or under the provisions of this Act, the wages specified in any award or agreement as payable upon a daily or hourly basis shall without any order of the court or variation or amendment of the award or agreement be increased to such amounts as will provide each employee working full time the same amount of wages as he would have received for working full time under the provisions of the award or agreement. Wages at daily rate. *Ibid.* s. 15 (2).

The increase in the rate of wages shall take effect—

(a) in a case in which the court or a board exercises the jurisdiction conferred by paragraph (f) of subsection one of section five of this Act as from the date of the order of the court or board or as from such future date as is specified in the order; and

(b) in other cases as from the date of the commencement of this Act.

(4) Any increase in the rate of wages under the last preceding subsection shall be binding and enforceable in the same manner as if the same had been made by an award of the court or a board. *Ibid.* s. 15 (3).

~~7.~~ **8.** Rates of pay for hours worked as overtime, or in excess of ordinary working hours in any industry in respect of which overtime or work in excess of ordinary working hours is not prohibited by or under this Act, shall not be fixed by an award or agreement at less than the rates which were paid in the industry at the commencement of this Act either under award or agreement or by well established practice in the industry. Overtime rates of pay. cf. *Ibid.* s. 17.

~~8.~~ **9.** Application may be made at any time during the currency of an award or agreement whether made or entered into before or after the commencement of this Act, for such variations or amendments as are necessary to bring it into conformity with or to give effect to the provisions of this Act. Application to vary terms of existing awards or agreements. *Ibid.* s. 19.

~~9.~~

~~9.~~ **10.** Any person making a contract or agreement, express or implied, and whether verbally or in writing, which provides for the working of hours in excess of those prescribed by or under this Act shall be liable to a penalty not exceeding fifty pounds, recoverable in a summary way before a stipendiary or police magistrate or any two justices in petty sessions. Penalty. 1920 No. 28, s. 20.

~~10.~~ **11.** Nothing in this Act shall be a defence to an employer or shall exempt him from any liability in any action or other proceeding brought against him by any person whether an employee or not for the recovery of compensation for injuries or recovery of wages or for any other purpose. Act not to debar proceedings for recovery of compensation for injuries or wages, &c. *Ibid.* s. 21.

PART III.

Supplemental Provisions.

~~11.~~ **12.** Where in any award or order made under any Act of the Commonwealth of Australia or in any industrial agreement made pursuant to any such Act, **for any industry to which the Principal Act applies other than coal mining and shipping, with respect to vessels trading beyond the limits of a port, or those industries mentioned in section 24B of the Principal Act,** provision is made that the standard or ordinary weekly hours of work or duty of an employee shall not exceed a number stated in the award, order, or agreement greater than forty-four, or where in any such award, order, or agreement expressions of a like significance occur, then in such a case the standard or ordinary hours of work or duty of such employee shall not exceed those prescribed by or under section five of this Act. Hours in certain cases.

~~12.~~ **13.** Where in any award or order made under any Act of the Parliament of the Commonwealth of Australia, or by any industrial agreement made pursuant Wages in certain cases.

to

to any such Act, a minimum rate of wage at either an hourly, daily, or weekly rate is provided for and the standard or ordinary weekly hours of work or duty of an employee exceed forty-four, then there shall be payable to the employee and paid by the employer in addition to wages at the minimum rate specified in the award, order, or agreement, further wages in accordance with the following scale :—

(a) for every hour worked up to forty-four in any week at the rate ascertained by the formula—

$$\text{MHR} \times \frac{\text{SWH}-44}{44}$$

in which formula MHR represents the minimum hourly rate and SWH represents the standard working hours prescribed in the order, award, or agreement;

(b) for every hour worked in excess of forty-four in any week up to four, at a rate equal to the difference between the minimum hourly rate and any overtime hourly rate provided for in the order, award, or agreement.

Where the order, award, or agreement specifies a minimum daily rate the minimum hourly rate shall be deduced therefrom by the formula—

$$\text{MDR} \times \frac{\text{NWD}}{\text{SWH}}$$

in which MDR represents the minimum daily rate, NWD the number of ordinary working days, and SWH the standard weekly working hours specified in the order, award, or agreement.

Where the order, award, or agreement specifies a minimum weekly rate the minimum hourly rate shall be deduced therefrom by the formula—

$$\frac{\text{MWR}}{\text{SWH}}$$

in which MWR represents the minimum weekly rate, and SWH the standard weekly working hours specified in the order, award, or agreement.

~~13.~~ **14.** Any amount due to an employee under the last preceding section may be recovered as a debt in any court of competent jurisdiction. Recovery.

~~14.~~ **15.** Any employer who refuses to pay to an employee the additional amounts prescribed in section twelve of this Act shall be liable upon summary conviction to a penalty not exceeding twenty pounds in addition to being liable to pay such additional amount. Penalty.

Sydney: Alfred James Kent, Government Printer—1925.

[10*d*.]

25—B

1925.

Legislative Council.

FORTY-FOUR HOURS WEEK BILL.

(*Amendments to be moved in Committee of the Whole.*)

Page 3, clause 5 6, line 13. *After* the words "coal mining"—

MR. DICK to move:—*Insert* "and shipping, with respect to "vessels trading beyond the limits of a port";

MR. McDONALD to move:—*Insert* "and industries where con-"tinuous process operations are compulsorily carried on";

MR. FARRAR to move:—*Insert* "and employees of the Board of "Fire Commissioners of New South Wales."

Page 3, clause 5 6, line 27,—

MR. FARRAR to move:—*After* the word "days" *insert* the following words:—"Provided that in the case of shift-"workers this Act shall be deemed to have been complied "with if the employees are allowed a period of forty minutes "for crib or meal time in each eight-hour shift."

Page 3, clause 5 6, lines 33 and 34. *Omit* the words "by consent."

Page 4, clause 5 6, line 11,—

MR. FARRAR to move:—*After* the word "seven" *insert* the words "or eleven out of twelve."

Page 4, clause 5 6, line 11. *After* the word "days" *insert* the following words:—"Excepting in cases of emergency not under the "control of the employer or as may be provided for from "time to time by the court or board."

Page 5, clause 5 6, line 16. *After* the word "industry" *insert* the words "or in any section of industry."

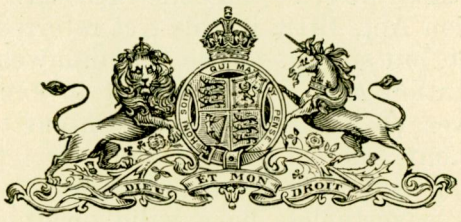
78699 25—

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

W. S. MOWLE,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 1 *October*, 1925.

New South Wales.



ANNO SEXTO DECIMO

GEORGII V REGIS.

* *

Act No. , 1925.

An Act to regulate the hours of work in certain industries, and the payment of overtime; to further regulate the making, varying, and amending of awards and industrial agreements; to amend the Industrial Arbitration Act, 1912, and certain other Acts; to repeal the Eight-hours Act, 1916, and the Eight-hours (Amendment) Act, 1922; and for purposes connected therewith.

Forty-four Hours Week.

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.

1. (1) This Act may be cited as the "Forty-four Hours Week Act, 1925." Short title.

(2) This Act shall come into operation on a day to be fixed by the Governor and notified by proclamation published in the Gazette. Commencement.

(3) This Act shall be read and construed with the Industrial Arbitration Act, 1912, in this Act referred to as the Principal Act, but subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any enactment thereof would but for this subsection have been construed as being in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power. Construction.

(4) This Act is divided into Parts as follows:— Division into Parts.

PART I.—PRELIMINARY, *ss.* 1–4.

PART II.—HOURS IN INDUSTRIES GENERALLY, *ss.* 5–10.

PART III.—SUPPLEMENTAL PROVISIONS, *ss.* 11–14.

2. The Eight-hours Act, 1916, and the Eight-hours (Amendment) Act, 1922, are hereby repealed. Repeal of Act 1916 No. 11, and Act 1922 No. 8.

3. In this Act, unless the context otherwise requires,— Definitions. 1916 No. 11, s. 2.

"Agreement" means an industrial agreement and includes an agreement filed under section twelve or section forty-one of the Principal Act.

"Overtime" means—

(a) time worked in excess of the days or hours limited by or under this Act; or

(b)

(b) time worked on any day before the fixed or recognised times of starting or after the fixed or recognised times of leaving off work on such day in any industry or calling or by any class or shift employed in any industry or calling.

4. The Principal Act, and this Act, shall bind the Crown, and be construed as having reference to the direct and all other employees of the Crown.

Act to bind Crown. 1916 No. 11, s. 3.

PART II.

Hours in Industries Generally.

5. (1) The ordinary working hours in all industries other than coal mining to which the Principal Act applies shall be as prescribed in or under this section, and the following directions shall be observed by the court and the boards in making awards, and by the parties in making agreements—

Directions to be observed in awards and agreements. cf. *Ibid.* s. 4.

(a) In all industries subject to the provisions of this section, the number of ordinary working hours of an employee shall not exceed—

Industries generally.

(1) eight hours during any consecutive twenty-four hours; or
(2) forty-four hours per week; or
(3) eighty-eight hours in fourteen consecutive days; or
(4) one hundred and thirty-two hours in twenty-one consecutive days.

Where a working period has been fixed by an award or agreement before or after the commencement of this Act, the working period shall not be altered to either of the longer working periods referred to in this section except by agreement or award made by consent.

Where

Where a short day or days or lesser working days than six in each week are adopted by an award or agreement for an employee or class of employees, the time worked on any day may be greater than eight hours per day, in order to allow the above-mentioned hours to be worked during the working period adopted by the award or agreement.

No employee shall be required to work on more than six out of seven consecutive days.

(b) The working time of an employee in a shift in underground occupations or occupations in which the conditions as to temperature, ventilation, and lighting are similar to those obtaining in underground occupations, shall not exceed six hours if for four hours of the working time of the shift the temperature of the place where the employee is occupied shall have exceeded eighty-one degrees Fahrenheit thermometer using a wet bulb.

For the purposes of this paragraph any number of employees whose regular time for beginning work is approximately the same and whose regular time of terminating work is approximately the same are to be deemed a shift of employees.

(c) Overtime in any industry may be permitted by the terms of any award or agreement, and shall be paid at a rate to be fixed by the court or the board or by the agreement.

(d) Notwithstanding the terms of any award or agreement from time to time current, the court or board may, by award, or the parties may, by agreement, from time to time, for the purpose of distributing the work available in an industry so as to relieve unemployment or for any other purpose which appears to the court or board or to the parties in the case of an agreement, to be good and sufficient, prohibit or restrict to any extent the working of overtime.

(e) Where in any industry the ordinary time of work is, at the commencement of this Act, fixed by award or agreement or by well established practice in the industry, such time shall not be exceeded after such commencement in respect of such industry.

(f) If the court or board is of opinion that the health of the employees in an industry justifies a reduction of the ordinary working hours in the industry, the court or board may reduce the ordinary working hours fixed by any award or agreement at the commencement of this Act or thereafter in force, or may in any industry reduce the ordinary working hours prescribed in this section.

(2) The ordinary working hours in any industry may be increased beyond those prescribed in this section if the court or board is of opinion that it is essential in the public interest that such increase shall be allowed.

Existing awards and agreements.

6. (1) Every award or agreement in force at the commencement of this Act shall respectively be deemed to incorporate such of the provisions of section five of this Act as relate to the industry in which the conditions of employment are regulated by the award or agreement.

Weekly wages not to be reduced. 1920 No. 28, s. 15 (1).

(2) Wages fixed by any such award or agreement, or any award made or agreement entered into after the commencement of this Act, upon a weekly basis shall not be reduced by reason only of any reduction of the ordinary working hours by or under this Act.

Wages at daily rate. *Ibid.* s. 15 (2).

(3) Where the ordinary working hours in an industry are reduced by or under the provisions of this Act, the wages specified in any award or agreement as payable upon a daily or hourly basis shall without any order of the court or variation or amendment of the award or agreement be increased to such amounts as will provide each employee working full time the same amount of wages as he would have received for working full time under the provisions of the award or agreement.

The

The increase in the rate of wages shall take effect—

(a) in a case in which the court or a board exercises the jurisdiction conferred by paragraph (f) of subsection one of section five of this Act as from the date of the order of the court or board or as from such future date as is specified in the order; and

(b) in other cases as from the date of the commencement of this Act.

(4) Any increase in the rate of wages under the last preceding subsection shall be binding and enforceable in the same manner as if the same had been made by an award of the court or a board. 1920 No. 28, s. 15 (3).

7. Rates of pay for hours worked as overtime, or in excess of ordinary working hours in any industry in respect of which overtime or work in excess of ordinary working hours is not prohibited by or under this Act, shall not be fixed by an award or agreement at less than the rates which were paid in the industry at the commencement of this Act either under award or agreement or by well established practice in the industry. Overtime rates of pay. cf. *Ibid.* s. 17.

8. Application may be made at any time during the currency of an award or agreement whether made or entered into before or after the commencement of this Act, for such variations or amendments as are necessary to bring it into conformity with or to give effect to the provisions of this Act. Application to vary terms of existing awards or agreements. *Ibid.* s. 19.

9. Any person making a contract or agreement, express or implied, and whether verbally or in writing, which provides for the working of hours in excess of those prescribed by or under this Act shall be liable to a penalty not exceeding fifty pounds, recoverable in a summary way before a stipendiary or police magistrate or any two justices in petty sessions. Penalty. *Ibid.* s. 20.

10. Nothing in this Act shall be a defence to an employer or shall exempt him from any liability in any action or other proceeding brought against him by any person whether an employee or not for the recovery of compensation for injuries or recovery of wages or for any other purpose. Act not to debar proceedings for recovery of compensation for injuries or wages, &c. *Ibid.* s. 21.

PART

PART III.

Supplemental Provisions.

11. Where in any award or order made under any Act of the Commonwealth of Australia or in any industrial agreement made pursuant to any such Act, provision is made that the standard or ordinary weekly hours of work or duty of an employee shall not exceed a number stated in the award, order, or agreement greater than forty-four, or where in any such award, order, or agreement expressions of a like significance occur, then in such a case the standard or ordinary hours of work or duty of such employee shall not exceed those prescribed by or under section five of this Act. Hours in certain cases.

12. Where in any award or order made under any Act of the Parliament of the Commonwealth of Australia, or by any industrial agreement made pursuant to any such Act, a minimum rate of wage at either an hourly, daily, or weekly rate is provided for and the standard or ordinary weekly hours of work or duty of an employee exceed forty-four, then there shall be payable to the employee and paid by the employer in addition to wages at the minimum rate specified in the award, order, or agreement, further wages in accordance with the following scale :— Wages in certain cases.

(a) for every hour worked up to forty-four in any week at the rate ascertained by the formula—

$$\text{MHR} \times \frac{\text{SWH}-44}{44}$$

in which formula MHR represents the minimum hourly rate and SWH represents the standard working hours prescribed in the order, award, or agreement;

(b) for every hour worked in excess of forty-four in any week up to four, at a rate equal to the difference between the minimum hourly rate and any overtime hourly rate provided for in the order, award, or agreement.

Where

Where the order, award, or agreement specifies a minimum daily rate the minimum hourly rate shall be deduced therefrom by the formula—

$$\text{MDR} \times \frac{\text{NWD}}{\text{SWH}}$$

in which MDR represents the minimum daily rate, NWD the number of ordinary working days, and SWH the standard weekly working hours specified in the order, award, or agreement.

Where the order, award, or agreement specifies a minimum weekly rate the minimum hourly rate shall be deduced therefrom by the formula—

$$\frac{\text{MWR}}{\text{SWH}}$$

in which MWR represents the minimum weekly rate, and SWH the standard weekly working hours specified in the order, award, or agreement.

Recovery.

13. Any amount due to an employee under the last preceding section may be recovered as a debt in any court of competent jurisdiction.

Penalty.

14. Any employer who refuses to pay to an employee the additional amounts prescribed in section twelve of this Act shall be liable upon summary conviction to a penalty not exceeding twenty pounds in addition to being liable to pay such additional amount.

Sydney: Alfred James Kent, Government Printer—1925.

[7*d*.]