

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. 16, 1943.

An Act to make further provision for and in relation to the supervision and regulation of factories and shops; to make provision for securing the safe working of boilers and pressure vessels; for these and other purposes to amend the Factories and Shops Acts, 1912-1941, in certain respects; and for purposes connected therewith. [Assented to, 29th June, 1943.]

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:—

1. (1) This Act may be cited as the "Factories and Shops (Amendment) Act, 1943."

Short title, citation and commencement.

(2) The Factories and Shops Acts, 1912-1941, is in this Act referred to as the Principal Act.

Factories and Shops (Amendment).

(3) The Factories and Shops Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Factories and Shops Act, 1912-1943.

(4) This Act (other than section six) shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No.
39, 1912.

Sec. 3.
(Defini-
tions.)

2. The Principal Act is amended—

(a) by inserting in section three next after the definition of “Bakehouse” the following new definition:—

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

(b) by omitting from the definition of “Child” in the same section the words “under the age of fourteen years” and by inserting in lieu thereof the words “under the school leaving age”;

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

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

-cf. Act No.
48, 1940,
s. 2.

Further
amendment
of Act No.
39, 1912.

Sec. 5.

(Appoint-
ment
of inspectors.)

3. (1) The Principal Act is further amended by inserting at the end of subsection one of section five the words—

One of such inspectors shall be appointed Chief Inspector of Factories and Shops.

(2) The person who, immediately before the commencement of this Act, held the office of Chief Inspector, Factories and Shops Act, shall be deemed to have been appointed under the Principal Act as amended by this Act as the Chief Inspector of Factories and Shops.

Factories and Shops (Amendment).

4. The Principal Act is further amended—

- (a) by inserting at the end of section twenty-five the following new subsection:—

(2) (a) Where in connection with any process carried on in a factory dust, fumes or other impurities are generated or given off, of such a character or to such an extent that the inhalation thereof would be likely to be injurious or offensive to the persons employed therein, effective measures shall be taken by the occupier to prevent the accumulation in any workroom of such dust, fumes, or impurities and to protect such persons against the inhalation of such dust, fumes or impurities.

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

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

(b) This subsection shall apply whether or not a notice has been served pursuant to subsection one of this section.

- (b) by inserting at the end of section thirty-three the following words:—

In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce and any building in which sheep are shorn by machinery.

- (c) (i) by omitting from subsection two of section thirty-four the word "he" and by inserting in lieu thereof the words "or where a recommendation is made to the Minister by the

Further amendment of Act No. 39, 1912. Sec. 25. (Ventilation, etc., in certain cases.)

Sec. 33. (Dangerous machinery.)

Sec. 34. (Safe-guards.)

Factory

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Factory Welfare Board pursuant to subsection two of section 36c of this Act with respect to any factory or class or description of factories or the persons employed therein, the Minister”;

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

(4) The powers which are exercisable by the Minister under subsection two of this section in relation to a factory where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act, may also be exercised in relation to a building used for the manufacture of dairy produce in any case where the Factory Welfare Board has made a recommendation pursuant to that subsection in respect of any building used for the manufacture of dairy produce, and for such purposes a reference in subsection two, subsection (2A) or subsection three of this section to a factory shall be deemed to include a reference to a building used for the manufacture of dairy produce.

Sec. 36c.
(Factory
Welfare
Board.)

- (d) (i) by omitting from subsection one of section 36c the words “of Factories” wherever occurring;
- (ii) by omitting from the same subsection the words “be appointed for a term of three years” and by inserting in lieu thereof the words “hold office for a term of seven years”;
- (iii) by inserting next after the same subsection the following new subsection:—

(1A) The persons (other than the Chief Inspector) holding office as members of the Factory Welfare Board at the commencement of the Factories and Shops (Amendment) Act, 1943, shall be deemed

to

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to have been validly appointed as such for a term of seven years, and shall continue to hold office for the balance of the term of seven years commencing from the seventeenth day of June, one thousand nine hundred and forty-two.

- (iv) by inserting at the end of the same section the following new subsections:—

(5) The Factory Welfare Board or any member thereof authorised by such Board under the hand of the chairman may at any reasonable time enter and inspect any premises used as a factory, and any work being carried on there. If any person hinders or obstructs the Factory Welfare Board or any member thereof in the exercise of the powers conferred by this section, or hinders or obstructs a factory welfare officer in the exercise of the powers and duties prescribed under subsection four of this section, he shall be liable to a penalty not exceeding twenty pounds.

cf. Act No.
2, 1940,
s. 128.

(6) In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce.

- (e) (i) by inserting next after paragraph (b) of subsection one of section thirty-eight the following new paragraph:—

Sec. 38.
(Notice of
accidents.)

(b1) an accident due to any machinery moved by mechanical power or to molten metal, hot liquid, or other hot substance, explosion, escape of gas or steam, or to electricity, or to acid or alkaline solutions which while it does not so disable any person employed in the factory as to prevent him returning to his work in the factory on the day of the

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the accident does so disable him that he is prevented from continuing with his work in the factory on that day or from returning to his work in the factory on the next working day; or

(ii) by omitting from paragraph (c) of the same subsection the words "as aforesaid" and by inserting in lieu thereof the words "to any person employed in the factory as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident";

Sec. 39.
(Fire escapes.)

(f) by omitting from subsection three of section thirty-nine the words "the first floor" and by inserting in lieu thereof the words "or below the ground floor";

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

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

cf. 1 Edw. VIII and 1 Geo. VI, c. 67, s. 21.

(2) No person shall be employed in any factory to work at any machine to which this subsection applies unless—

(a) he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed in connection with the machine; and

(b) (i) he has received a sufficient training in work at the machine, or

(ii) he is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

This subsection shall apply to machines of such class or description as may be prescribed by order made by the Minister being machines which, in his opinion, are of such a dangerous character that persons ought not to work at them unless the foregoing requirements are complied with.

(h)

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- (h) (i) by omitting from subsection one of section forty-three the words "any person" and by inserting in lieu thereof the words "any such person"; Sec. 43.
(Hours of employment may be extended under certain conditions.)
- (ii) by inserting at the end of the same section the following new subsection:—
- (7) Nothing in this section shall affect the operation of any award or industrial agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts; but no person shall be entitled to claim benefits under this section as well as under the award or industrial agreement.
- (i) by omitting from subsection one of section forty-nine the word "employed" and by inserting in lieu thereof the word "engaged"; Sec. 49.
(Hours of employment in certain factories.)
- (j) (i) by omitting from subsection one of section fifty-two the words "and subject to Part IV and Part V of this Act no prosecution shall be instituted without the authority of the Minister"; Sec. 52.
(No prosecution without consent of Minister.)
- (ii) by inserting next after subsection one of the same section the following new subsection:—
- (1A) Proceedings for the recovery of any penalty imposed by this Act or the regulations made thereunder may be taken and prosecuted by an inspector acting with the authority of the Minister, or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned.
- No such proceedings shall be taken by any other person except where otherwise expressly provided.
- (k) by omitting from subsection one of section fifty-four the words "except where otherwise expressly provided"; Sec. 54.
(Recovery of penalties.)

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Sec. 57.
(Penalty
for
employing
person
contrary
to Act.)

- (l) by omitting from section fifty-seven the words "liable to a penalty not exceeding two pounds, or if the offence was committed during the night, three pounds for each person so employed" and by inserting in lieu thereof the words "guilty of an offence against this Part of this Act";

Sec. 62.
(Regula-
tions.)

- (m) (i) by inserting in paragraph (f) of subsection one of section sixty-two after the word "flooring" the word "lining";
- (ii) by inserting next after paragraph (t) of the same subsection the following new paragraph:—
- (u) providing for the method of construction and the materials used in the roofing of factories.

Further
amendment
of Act No. 39,
1912.
Sec. 3.
(Interpre-
tation.)

5. The Principal Act is further amended—

- (a) (i) by inserting in section three next after the definition of "Bakehouse" the following new definition:—

"Boiler" means any closed vessel in which for any purpose steam is generated under pressure greater than atmospheric pressure, and includes any economiser used to heat water being fed to any such vessel, and any superheater used for heating steam and includes feed blow down and steam distribution pipe lines, fittings and connections, but does not include a boiler in any ship or a boiler used in or about a mine.

- (ii) by inserting in the same section next after the definition of "Manufacturing process" the following new definition:—

"Maximum allowable safe working pressure" in relation to any boiler

or

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

- (iii) by inserting in the same section next after the definition of "Prescribed" the following new definition:—

"Pressure vessel" means any closed vessel not heated by fire or the products of combustion or by electrical means and subjected to pressure (including pressure due to a static head) by liquids, vapours or air or other gases but does not include cylinders for the storage and transport of compressed gases or a pressure vessel on any ship or a pressure vessel used in or about a mine.

- (b) by inserting next after subsection one of section sixty-two the following new subsection:—

Sec. 62.
(Regulations.)

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

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

- (a) relating to the design, construction, fitting, location, erection, installation, setting, alteration, repair, maintenance, operation and use of boilers and pressure vessels;
- (b) providing for the identification of boilers and pressure vessels and the marking of the maximum allowable safe working

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- working pressure on boilers and pressure vessels;
- (c) providing for the examination, qualifications, licensing, powers, duties, supervision and control of boiler inspectors;
 - (d) providing for the inspection and testing and the certification as to maximum allowable safe working pressure and as to conditions and requirements for the safe working and usage of boilers and pressure vessels;
 - (e) requiring designs, specifications and particulars of boilers and pressure vessels to be submitted to and approved by the Chief Inspector;
 - (f) providing for the supervision of the manufacture of boilers and pressure vessels and the submission to the Chief Inspector of particulars relating to the welding and the plates and other component materials and parts of boilers and pressure vessels and the testing thereof;
 - (g) prescribing the fees to be paid in respect of all or any of the following matters:—
 - (i) the reviewing of designs, specifications and details of boilers and pressure vessels;
 - (ii) examination of candidates for licenses as boiler inspectors, for the issue of such licenses, and the annual renewal of such licenses;
 - (iii) specification forms and forms for use for the purposes of the regulations by boiler inspectors;
 - (h) prescribing the fees to be charged by boiler inspectors;
- (i)

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- (i) authorising the Chief Inspector, by certificate in writing under his hand to exempt any class or type of boiler or pressure vessel from the operation of any provision of the regulations where he is satisfied that such provision cannot reasonably be applied to such class or type of boiler or pressure vessel. Any such exemption may be absolute or may be made subject to such conditions as the Chief Inspector may impose;
- (j) prescribing a penalty not exceeding fifty pounds for any breach of the regulations made in relation to the matters referred to in this subsection.

6. (1) The Principal Act is further amended—

Further
amendment
of Act No.
39, 1912.

- (a) (i) by inserting in section seventy-six next after the definition of "Australia" the following new definition:—

Sec. 76.
(Defini-
tions.)

"Boots" includes shoes and other footwear.

- (ii) by inserting in the same section in the definition of "False trade description" after the words "upholstered furniture" the words "or wood furniture or boots";
- (iii) by omitting from the same section the definition of "Trade description" and by inserting in lieu thereof the following definitions:—

"Trade description," in relation to any bedding or upholstered furniture or wood furniture or boots, (in this definition hereinafter referred to as "goods"), means any description, statement, indication, or suggestion, direct or indirect, as to—

- (a) the nature, number, quantity, quality, purity, class, grade, measure, gauge, size, or weight of the goods; or
- (b)

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- (b) the State, country, or place in or at which the goods, or any portions or constituents thereof, were made or produced; or
- (c) the manufacturer or producer of the goods or the person by whom they were selected, packed, graded, or in any way prepared for the market; or
- (d) the mode of manufacturing, producing, selecting, packing, grading or otherwise preparing the goods; or
- (e) the material or ingredients of which the goods are composed or from which they are derived; or
- (f) the goods being the subject of an existing patent, privilege, or copyright;

and includes the use of any figure, word, trade name, trade style, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters.

“Upholstered furniture” means any upholstered settee, upholstered chair, upholstered ottoman, upholstered couch and any other article of furniture which is upholstered in a like manner.

“Wood furniture” means furniture of any of the following descriptions, that is to say, a wardrobe, dressing table, loughboy, bedstead, sideboard, dining table, kitchen table, office table, card table, occasional table, chair, kitchen cabinet and book-case, whether or not
the

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the same is so described, and which
is made wholly or mainly of wood.

(b) (i) by inserting in subsection one of section Sec. 77.
(Trade
description
to be
appended.)
seventy-seven after the words "upholstered
furniture" the words "or wood furniture
or boots";

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

(3) (a) Where the trade description
appended to any bedding or upholstered
furniture or wood furniture or boots (in this
subsection hereinafter referred to as
"goods") is contained in any document,
card, label or other thing capable of being
detached from the goods, the document,
card, label, or thing shall be signed by the
vendor of the goods or by some person
authorised to sign on his behalf, and shall
be given to the purchaser at the time of the
sale.

If any such document, card, label or thing
is not so signed or is not so given to the
purchaser of the goods, the vendor of the
goods shall be guilty of an offence against
this Act.

(b) In any prosecution for an offence
against this Part of this Act—

(i) production of any such document,
card, label or thing shall, upon
proof that the same was given to
the purchaser at the time of the
sale of the goods the subject of the
charge, be conclusive evidence that
the goods were sold as goods to
which the trade description con-
tained in such document, card,
label or thing was appended; and

(ii) proof that the document, card, label
or thing was signed by some person
apparently employed at the place
of

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- of business at which the goods were sold shall be conclusive evidence that the person signing the same was authorised to do so on behalf of the vendor.
- Sec. 78. (c) by inserting in section seventy-eight after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
(Altered trade description.)
- Sec. 79. (d) by inserting in section seventy-nine after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
(False trade description.)
- Sec. 81. (e) (i) by inserting in subsection one of section eighty-one after the words "upholstered furniture" where firstly occurring the words "or wood furniture or boots";
(Appending trade description.)
- (ii) by omitting from paragraph (a) of the same subsection the word "itself" and by inserting in lieu thereof the words "or wood furniture itself or to the boots themselves";
- (iii) by inserting in paragraphs (b), (c) and (d) of the same subsection after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- (iv) by inserting in subsections two and three of the same section after the words "upholstered furniture" the words "or wood furniture or boots";
- Sec. 82. (f) (i) by inserting in subsection one of section eighty-two after the words "upholstered furniture" the words "or wood furniture or boots";
(Offences.)
- (ii) by inserting in subsection two of the same section after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- Sec. 83. (g) by inserting in section eighty-three after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
(Sale with false trade description.)
- (h)

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- (h) by inserting in subsection one of section eighty-four after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 84.
(Offence in course of business.)
- (i) by inserting in section eighty-five after the words "upholstered furniture" the words "or wood furniture or boots"; Sec. 85.
(False representations as to Royal Warrant.)
- (j) (i) by omitting from section eighty-seven the words "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, 1940, as amended by subsequent Acts"; Sec. 87.
(Who may prosecute.)
- (ii) by inserting in the same section after the word "Minister" the words "or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned";
- (iii) by inserting at the end of the same section the following new subsection:—
- (2) The provisions of subsection two of section fifty-four of this Act shall extend to and in respect of proceedings under this section.
- (k) (i) by inserting at the end of paragraph (a) of section ninety the following words:— Sec. 90.
(General penalty.)
- for a first offence, and for a second offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than twenty-five pounds and not exceeding one hundred pounds; and for a third or subsequent offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than fifty pounds and not exceeding two hundred pounds, or, where such person is an individual, to both such imprisonment and such penalty;

(ii)

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

(2) Where a person is convicted of an offence against this Part of this Act in respect of the sale of any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as "goods") to which any false trade description is appended the court before which he is convicted may, in addition to any penalty or punishment imposed, order that the defendant, within a period to be specified in the order—

(a) refund to the purchaser of the goods an amount equivalent to the purchase money paid in respect thereof; or

(b) supply to the purchaser goods in accordance with the trade description referred to in the charge or, if he is unable to supply such goods, refund an amount equivalent to the purchase money paid in respect of the goods the subject of the charge.

The provisions of section eighty-two of the Justices Act, 1902-1940, shall, *mutatis mutandis*, apply to and in respect of any amount so ordered to be paid and the persons against whom the order is made.

**New sec.
90A.**

(1) by inserting next after section ninety the following new section:—

**Power to
prohibit
carrying on
of business
by persons
convicted
of numerous
offences.**

90A. (1) Where any person engaged in the business of selling by retail bedding or upholstered furniture or wood furniture or boots has been convicted three times within five years of any offence (whether of the same or different kinds) against this Part of this Act the Industrial Commission of New South Wales, upon application made as in this section provided, may,

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may, by order, prohibit such person from engaging in such business for such period as the Commission may determine.

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

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

(3) Any person who engages in the business of selling by retail bedding or upholstered furniture or wood furniture or boots in contravention of an order made under this section shall be guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding two hundred pounds.

- (m) (i) by omitting from paragraph (a) of sub-
 section one of section ninety-five the word Sec. 95.
 (Powers of
 inspectors.)
 "is" wherever occurring and by inserting
 in lieu thereof the words "or wood furniture
 or boots are";
- (ii) by inserting in paragraph (b) of the same
 subsection after the words "upholstered
 furniture" the words "or wood furniture
 or boots";
- (iii) by inserting in paragraph (d) of the same
 subsection after the words "upholstered
 furniture" the words "or wood furniture or
 boots";
- (iv) by inserting at the end of the same para-
 graph the words "or may take samples of
 materials used in the manufacture of the
 same."

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed pursuant to subsection four of section one of this Act:

B

Provided

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Provided that in respect of bedding, upholstered furniture, wood furniture and boots in the possession of any person at the commencement of subsection one of this section, the Governor may, from time to time, by proclamation published in the Gazette, suspend the operation of all or any of the amendments made by that subsection in their application to and in respect of bedding, or upholstered furniture, or wood furniture, or boots generally, or to and in respect of any particular bedding or upholstered furniture or wood furniture or boots; and any such suspension may be absolute or may be subject to such conditions as the Governor may determine and notify in the proclamation.

Further
amendment
of Act No.
39, 1912.
Sec. 97.

(False ad-
vertise-
ments.)

7. The Principal Act is further amended—

- (a) by inserting at the end of subsection one of section ninety-seven the words “or to imprisonment for a term not exceeding six months for a first offence, and for a second offence to a penalty not less than twenty-five pounds and not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, and for a third or subsequent offence to a penalty of not less than fifty pounds and not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months, or, where such person is an individual, to both such penalty and such imprisonment”;
- (b) by inserting at the end of subsection two of the same section the following word and new paragraph:—

; or

(c) made verbally.

8. The Principal Act is further amended—

- (a) (i) by inserting in subsection three of section one hundred and five after the words “butchers’ shops” the words “and chemists’ shops”;

(ii)

Further
amendment
of Act No.
39, 1912.
Sec. 105.
(Closing
times for
shops.)

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- (ii) by inserting next after the same subsection the following new subsection:—

(3A) The closing time for chemists' shops situate in a shopping district, whether or not employees are employed therein, shall on each week day be such time as may be fixed by any award made after the commencement of the Factories and Shops (Amendment) Act, 1943, and for the time being in force under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, for the cessation of the ordinary hours of work by employees in such shops in such district, and, where provision is made for the reopening of such shops on the day of the weekly half-holiday, opening and closing times for the reopening of such shops so situated shall be such times as may be fixed by any such award for the commencement and cessation, for the purpose of such reopening, of the ordinary hours of work by employees in such shops so situated.

- (iii) by inserting next after subsection four of the same section the following new subsection:—

(4A) Where, at the commencement of the Factories and Shops (Amendment) Act, 1943, the closing time fixed by or under this Act for any class of shops (other than shops of any of the classes specified in Schedule Eight to this Act) in a shopping district is later than six o'clock in the afternoon then, as from such commencement, the closing time for such class of shops shall be six o'clock in the afternoon.

- (b) (i) by omitting from paragraph (a) of subsection one of section 105A the words "seven o'clock in the evening" and by inserting in lieu thereof the words "six o'clock in the afternoon";

Sec. 105A.
(Closing time for shops for sale of motor spirit, etc.)

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Sec. 107.
(Matters to
be dealt
with in
awards.)

- (ii) by omitting from the same paragraph the words "or late shopping night";
- (iii) by omitting from the same paragraph the words "and on the day on which such late shopping night is so observed be nine o'clock in the evening";
- (e) (i) by inserting in paragraph (a) of section one hundred and seven after the words "butchers' shops" the words "chemists' shops;"
- (ii) by inserting in the same section after the words "shopping district; and" the following new paragraph:—
 - (c1) in the case of chemists' shops the time for cessation of the ordinary hours of work for employees in such shops situate in any shopping district, and, where provision is made for reopening on the day of the weekly half-holiday the times for the commencement and cessation, for the purposes of such reopening, of the ordinary hours of work by employees in such shops so situated.
- (iii) by inserting at the end of the same section the following words:—

The time fixed by any such award for the cessation of the ordinary hours of work by employees in shops (other than shops of any of the classes specified in Schedule Eight to this Act) in any shopping district or by employees in shops for the sale of motor spirit, motor oil, or motor accessories shall not be later than six o'clock in the afternoon.

Sec. 108.
(Penalty for
not closing
shops.)

- (d) by inserting in subsection one of section one hundred and eight after the words "closing time" where secondly occurring the words "or where, in the case of chemists' shops, provision is made for the reopening of such shops on the day of the weekly half-holiday, if any such

chemist's

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chemist's shop is not closed and kept closed during the remainder of such half-holiday other than such period as may be allowed for the reopening, or if in any such chemist's shop goods are offered for sale at any time during the remainder of the half-holiday other than such period."

- (e) by inserting next after Schedule Seven the following new Schedule:—

SCHEDULE EIGHT.

Chemists' shops.
 Confectioners' shops.
 Cooked provision shops.
 Fish shops.
 Flower shops.
 Fruit and vegetable shops.
 Newsagencies.
 Refreshment shops.
 Restaurants.
 Tobacconists' shops.

New
 Schedule
 Eight.

Secs. 105,
 107.

By Authority:

ALFRED HENRY PETTIFER, Acting Government Printer, Sydney, 1943.

[9d.]

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. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 23 June, 1943.

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. 16, 1943.

An Act to make further provision for and in relation to the supervision and regulation of factories and shops; to make provision for securing the safe working of boilers and pressure vessels; for these and other purposes to amend the Factories and Shops Acts, 1912-1941, in certain respects; and for purposes connected therewith. [Assented to, 29th June, 1943.]

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:—

1. (1) This Act may be cited as the "Factories and Shops (Amendment) Act, 1943." Short title, citation and commencement.
- (2) The Factories and Shops Acts, 1912-1941, is in this Act referred to as the Principal Act.

(3)

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

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Factories and Shops (Amendment).

(3) The Factories and Shops Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Factories and Shops Act, 1912-1943.

(4) This Act (other than section six) shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment
of Act No.
39, 1912.
Sec. 3.
(Defini-
tions.)

2. The Principal Act is amended—

(a) by inserting in section three next after the definition of "Bakehouse" the following new definition:—

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

(b) by omitting from the definition of "Child" in the same section the words "under the age of fourteen years" and by inserting in lieu thereof the words "under the school leaving age";

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

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

cf. Act No.
48, 1940,
s. 2.

Further
amendment
of Act No.
39, 1912.
Sec. 5.
(Appointment
of inspectors.)

3. (1) The Principal Act is further amended by inserting at the end of subsection one of section five the words—

One of such inspectors shall be appointed Chief Inspector of Factories and Shops.

(2) The person who, immediately before the commencement of this Act, held the office of Chief Inspector, Factories and Shops Act, shall be deemed to have been appointed under the Principal Act as amended by this Act as the Chief Inspector of Factories and Shops.

4.

Factories and Shops (Amendment).

4. The Principal Act is further amended—

- (a) by inserting at the end of section twenty-five the following new subsection:—

(2) (a) Where in connection with any process carried on in a factory dust, fumes or other impurities are generated or given off, of such a character or to such an extent that the inhalation thereof would be likely to be injurious or offensive to the persons employed therein, effective measures shall be taken by the occupier to prevent the accumulation in any workroom of such dust, fumes, or impurities and to protect such persons against the inhalation of such dust, fumes or impurities.

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

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

(b) This subsection shall apply whether or not a notice has been served pursuant to subsection one of this section.

- (b) by inserting at the end of section thirty-three the following words:—

In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce and any building in which sheep are shorn by machinery.

- (c) (i) by omitting from subsection two of section thirty-four the word "he" and by inserting in lieu thereof the words "or where a recommendation is made to the Minister by the

Further amendment of Act No. 39, 1912. Sec. 25. (Ventilation, etc., in certain cases.)

Sec. 33. (Dangerous machinery.)

Sec. 34. (Safe-guards.)

Factory

Factories and Shops (Amendment).

Factory Welfare Board pursuant to subsection two of section 36c of this Act with respect to any factory or class or description of factories or the persons employed therein, the Minister”;

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

(4) The powers which are exercisable by the Minister under subsection two of this section in relation to a factory where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act, may also be exercised in relation to a building used for the manufacture of dairy produce in any case where the Factory Welfare Board has made a recommendation pursuant to that subsection in respect of any building used for the manufacture of dairy produce, and for such purposes a reference in subsection two, subsection (2A) or subsection three of this section to a factory shall be deemed to include a reference to a building used for the manufacture of dairy produce.

Sec. 36c.
(Factory
Welfare
Board.)

- (d) (i) by omitting from subsection one of section 36c the words “of Factories” wherever occurring;
- (ii) by omitting from the same subsection the words “be appointed for a term of three years” and by inserting in lieu thereof the words “hold office for a term of seven years”;
- (iii) by inserting next after the same subsection the following new subsection:—

(1A) The persons (other than the Chief Inspector) holding office as members of the Factory Welfare Board at the commencement of the Factories and Shops (Amendment) Act, 1943, shall be deemed

to

Factories and Shops (Amendment).

to have been validly appointed as such for a term of seven years, and shall continue to hold office for the balance of the term of seven years commencing from the seventeenth day of June, one thousand nine hundred and forty-two.

- (iv) by inserting at the end of the same section the following new subsections:—

(5) The Factory Welfare Board or any member thereof authorised by such Board under the hand of the chairman may at any reasonable time enter and inspect any premises used as a factory, and any work being carried on there. If any person hinders or obstructs the Factory Welfare Board or any member thereof in the exercise of the powers conferred by this section, or hinders or obstructs a factory welfare officer in the exercise of the powers and duties prescribed under subsection four of this section, he shall be liable to a penalty not exceeding twenty pounds.

cf. Act No.
2, 1940,
s. 128.

(6) In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce.

- (e) (i) by inserting next after paragraph (b) of subsection one of section thirty-eight the following new paragraph:—

Sec. 38.
(Notice of
accidents.)

(b1) an accident due to any machinery moved by mechanical power or to molten metal, hot liquid, or other hot substance, explosion, escape of gas or steam, or to electricity, or to acid or alkaline solutions which while it does not so disable any person employed in the factory as to prevent him returning to his work in the factory on the day of the

Factories and Shops (Amendment).

the accident does so disable him that he is prevented from continuing with his work in the factory on that day or from returning to his work in the factory on the next working day; or

- (ii) by omitting from paragraph (c) of the same subsection the words "as aforesaid" and by inserting in lieu thereof the words "to any person employed in the factory as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident";

Sec. 39.
(Fire escapes.)

- (f) by omitting from subsection three of section thirty-nine the words "the first floor" and by inserting in lieu thereof the words "or below the ground floor";

Sec. 41.
(Employment of women and young persons.)
cf. 1 Edw. VIII and 1 Geo. VI, c. 67, s. 21.

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

(2) No person shall be employed in any factory to work at any machine to which this subsection applies unless—

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

This subsection shall apply to machines of such class or description as may be prescribed by order made by the Minister being machines which, in his opinion, are of such a dangerous character that persons ought not to work at them unless the foregoing requirements are complied with. (h)

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- (h) (i) by omitting from subsection one of section forty-three the words "any person" and by inserting in lieu thereof the words "any such person"; Sec. 43.
(Hours of employment may be extended under certain conditions.)
- (ii) by inserting at the end of the same section the following new subsection:—
- (7) Nothing in this section shall affect the operation of any award or industrial agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts; but no person shall be entitled to claim benefits under this section as well as under the award or industrial agreement.
- (i) by omitting from subsection one of section forty-nine the word "employed" and by inserting in lieu thereof the word "engaged"; Sec. 49.
(Hours of employment in certain factories.)
- (j) (i) by omitting from subsection one of section fifty-two the words "and subject to Part IV and Part V of this Act no prosecution shall be instituted without the authority of the Minister"; Sec. 52.
(No prosecution without consent of the Minister.)
- (ii) by inserting next after subsection one of the same section the following new subsection:—
- (1A) Proceedings for the recovery of any penalty imposed by this Act or the regulations made thereunder may be taken and prosecuted by an inspector acting with the authority of the Minister, or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned.
- No such proceedings shall be taken by any other person except where otherwise expressly provided.
- (k) by omitting from subsection one of section fifty-four the words "except where otherwise expressly provided"; Sec. 54.
(Recovery of penalties.)

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Sec. 57.
(Penalty
for
employing
person
contrary
to Act.)

- (l) by omitting from section fifty-seven the words “liable to a penalty not exceeding two pounds, or if the offence was committed during the night, three pounds for each person so employed” and by inserting in lieu thereof the words “guilty of an offence against this Part of this Act”;

Sec. 62.
(Regula-
tions.)

- (m) (i) by inserting in paragraph (f) of subsection one of section sixty-two after the word “flooring” the word “lining”;
- (ii) by inserting next after paragraph (t) of the same subsection the following new paragraph:—
- (u) providing for the method of construction and the materials used in the roofing of factories.

Further
amendment
of Act No. 39,
1912.
Sec. 3.
(Interpre-
tation.)

5. The Principal Act is further amended—

- (a) (i) by inserting in section three next after the definition of “Bakehouse” the following new definition:—

“Boiler” means any closed vessel in which for any purpose steam is generated under pressure greater than atmospheric pressure, and includes any economiser used to heat water being fed to any such vessel, and any superheater used for heating steam and includes feed blow down and steam distribution pipe lines, fittings and connections, but does not include a boiler in any ship or a boiler used in or about a mine.

- (ii) by inserting in the same section next after the definition of “Manufacturing process” the following new definition:—

“Maximum allowable safe working pressure” in relation to any boiler
or

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

- (iii) by inserting in the same section next after the definition of "Prescribed" the following new definition:—

"Pressure vessel" means any closed vessel not heated by fire or the products of combustion or by electrical means and subjected to pressure (including pressure due to a static head) by liquids, vapours or air or other gases but does not include cylinders for the storage and transport of compressed gases or a pressure vessel on any ship or a pressure vessel used in or about a mine.

- (b) by inserting next after subsection one of section sixty-two the following new subsection:—

Sec. 62.
(Regulations.)

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

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

- (a) relating to the design, construction, fitting, location, erection, installation, setting, alteration, repair, maintenance, operation and use of boilers and pressure vessels;
- (b) providing for the identification of boilers and pressure vessels and the marking of the maximum allowable safe working

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- working pressure on boilers and pressure vessels;
- (c) providing for the examination, qualifications, licensing, powers, duties, supervision and control of boiler inspectors;
 - (d) providing for the inspection and testing and the certification as to maximum allowable safe working pressure and as to conditions and requirements for the safe working and usage of boilers and pressure vessels;
 - (e) requiring designs, specifications and particulars of boilers and pressure vessels to be submitted to and approved by the Chief Inspector;
 - (f) providing for the supervision of the manufacture of boilers and pressure vessels and the submission to the Chief Inspector of particulars relating to the welding and the plates and other component materials and parts of boilers and pressure vessels and the testing thereof;
 - (g) prescribing the fees to be paid in respect of all or any of the following matters:—
 - (i) the reviewing of designs, specifications and details of boilers and pressure vessels;
 - (ii) examination of candidates for licenses as boiler inspectors, for the issue of such licenses, and the annual renewal of such licenses;
 - (iii) specification forms and forms for use for the purposes of the regulations by boiler inspectors;
 - (h) prescribing the fees to be charged by boiler inspectors;
- (i)

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- (i) authorising the Chief Inspector, by certificate in writing under his hand to exempt any class or type of boiler or pressure vessel from the operation of any provision of the regulations where he is satisfied that such provision cannot reasonably be applied to such class or type of boiler or pressure vessel. Any such exemption may be absolute or may be made subject to such conditions as the Chief Inspector may impose;
- (j) prescribing a penalty not exceeding fifty pounds for any breach of the regulations made in relation to the matters referred to in this subsection.

6. (1) The Principal Act is further amended—

Further
amendment
of Act No.
39, 1912.
Sec. 76.
(Defini-
tions.)

- (a) (i) by inserting in section seventy-six next after the definition of "Australia" the following new definition:—

"Boots" includes shoes and other footwear.

- (ii) by inserting in the same section in the definition of "False trade description" after the words "upholstered furniture" the words "or wood furniture or boots";
- (iii) by omitting from the same section the definition of "Trade description" and by inserting in lieu thereof the following definitions:—

"Trade description," in relation to any bedding or upholstered furniture or wood furniture or boots, (in this definition hereinafter referred to as "goods"), means any description, statement, indication, or suggestion, direct or indirect, as to—

- (a) the nature, number, quantity, quality, purity, class, grade, measure, gauge, size, or weight of the goods; or
- (b)

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- (b) the State, country, or place in or at which the goods, or any portions or constituents thereof, were made or produced; or
- (c) the manufacturer or producer of the goods or the person by whom they were selected, packed, graded, or in any way prepared for the market; or
- (d) the mode of manufacturing, producing, selecting, packing, grading or otherwise preparing the goods; or
- (e) the material or ingredients of which the goods are composed or from which they are derived; or
- (f) the goods being the subject of an existing patent, privilege, or copyright;

and includes the use of any figure, word, trade name, trade style, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters.

“Upholstered furniture” means any upholstered settee, upholstered chair, upholstered ottoman, upholstered couch and any other article of furniture which is upholstered in a like manner.

“Wood furniture” means furniture of any of the following descriptions, that is to say, a wardrobe, dressing table, loughboy, bedstead, sideboard, dining table, kitchen table, office table, card table, occasional table, chair, kitchen cabinet and book-case, whether or not
the

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the same is so described, and which is made wholly or mainly of wood.

- (b) (i) by inserting in subsection one of section seventy-seven after the words "upholstered furniture" the words "or wood furniture or boots";

Sec. 77.
(Trade description to be appended.)

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

(3) (a) Where the trade description appended to any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as "goods") is contained in any document, card, label or other thing capable of being detached from the goods, the document, card, label, or thing shall be signed by the vendor of the goods or by some person authorised to sign on his behalf, and shall be given to the purchaser at the time of the sale.

If any such document, card, label or thing is not so signed or is not so given to the purchaser of the goods, the vendor of the goods shall be guilty of an offence against this Act.

- (b) In any prosecution for an offence against this Part of this Act—

- (i) production of any such document, card, label or thing shall, upon proof that the same was given to the purchaser at the time of the sale of the goods the subject of the charge, be conclusive evidence that the goods were sold as goods to which the trade description contained in such document, card, label or thing was appended; and
- (ii) proof that the document, card, label or thing was signed by some person apparently employed at the place of

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of business at which the goods were sold shall be conclusive evidence that the person signing the same was authorised to do so on behalf of the vendor.

- Sec. 78.
(Altered trade description.)
- (c) by inserting in section seventy-eight after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- Sec. 79.
(False trade description.)
- (d) by inserting in section seventy-nine after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- Sec. 81.
(Appending trade description.)
- (e) (i) by inserting in subsection one of section eighty-one after the words "upholstered furniture" where firstly occurring the words "or wood furniture or boots";
- (ii) by omitting from paragraph (a) of the same subsection the word "itself" and by inserting in lieu thereof the words "or wood furniture itself or to the boots themselves";
- (iii) by inserting in paragraphs (b), (c) and (d) of the same subsection after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- (iv) by inserting in subsections two and three of the same section after the words "upholstered furniture" the words "or wood furniture or boots";
- Sec. 82.
(Offences.)
- (f) (i) by inserting in subsection one of section eighty-two after the words "upholstered furniture" the words "or wood furniture or boots";
- (ii) by inserting in subsection two of the same section after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- Sec. 83.
(Sale with false trade description.)
- (g) by inserting in section eighty-three after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- (h)

Factories and Shops (Amendment).

- (h) by inserting in subsection one of section eighty-four after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 84.
(Offence in course of business.)
- (i) by inserting in section eighty-five after the words "upholstered furniture" the words "or wood furniture or boots"; Sec. 85.
(False representations as to Royal Warrant.)
- (j) (i) by omitting from section eighty-seven the words "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, 1940, as amended by subsequent Acts"; Sec. 87.
(Who may prosecute.)
- (ii) by inserting in the same section after the word "Minister" the words "or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned";
- (iii) by inserting at the end of the same section the following new subsection:—
- (2) The provisions of subsection two of section fifty-four of this Act shall extend to and in respect of proceedings under this section.
- (k) (i) by inserting at the end of paragraph (a) of section ninety the following words:— Sec. 90.
(General penalty.)
- for a first offence, and for a second offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than twenty-five pounds and not exceeding one hundred pounds; and for a third or subsequent offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than fifty pounds and not exceeding two hundred pounds, or, where such person is an individual, to both such imprisonment and such penalty;

(ii)

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

(2) Where a person is convicted of an offence against this Part of this Act in respect of the sale of any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as "goods") to which any false trade description is appended the court before which he is convicted may, in addition to any penalty or punishment imposed, order that the defendant, within a period to be specified in the order—

(a) refund to the purchaser of the goods an amount equivalent to the purchase money paid in respect thereof; or

(b) supply to the purchaser goods in accordance with the trade description referred to in the charge or, if he is unable to supply such goods, refund an amount equivalent to the purchase money paid in respect of the goods the subject of the charge.

The provisions of section eighty-two of the Justices Act, 1902-1940, shall, *mutatis mutandis*, apply to and in respect of any amount so ordered to be paid and the persons against whom the order is made.

(1) by inserting next after section ninety the following new section:—

90A. (1) Where any person engaged in the business of selling by retail bedding or upholstered furniture or wood furniture or boots has been convicted three times within five years of any offence (whether of the same or different kinds) against this Part of this Act the Industrial Commission of New South Wales, upon application made as in this section provided, may,

New sec.
90A.

Power to
prohibit
carrying on
of business
by persons
convicted
of numerous
offences.

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may, by order, prohibit such person from engaging in such business for such period as the Commission may determine.

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

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

(3) Any person who engages in the business of selling by retail bedding or upholstered furniture or wood furniture or boots in contravention of an order made under this section shall be guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding two hundred pounds.

- (m) (i) by omitting from paragraph (a) of sub-section one of section ninety-five the word "is" wherever occurring and by inserting in lieu thereof the words "or wood furniture or boots are"; Sec. 95.
(Powers of inspectors.)
- (ii) by inserting in paragraph (b) of the same subsection after the words "upholstered furniture" the words "or wood furniture or boots";
- (iii) by inserting in paragraph (d) of the same subsection after the words "upholstered furniture" the words "or wood furniture or boots";
- (iv) by inserting at the end of the same paragraph the words "or may take samples of materials used in the manufacture of the same."

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed pursuant to subsection four of section one of this Act:

Provided

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Provided that in respect of bedding, upholstered furniture, wood furniture and boots in the possession of any person at the commencement of subsection one of this section, the Governor may, from time to time, by proclamation published in the Gazette, suspend the operation of all or any of the amendments made by that subsection in their application to and in respect of bedding, or upholstered furniture, or wood furniture, or boots generally, or to and in respect of any particular bedding or upholstered furniture or wood furniture or boots; and any such suspension may be absolute or may be subject to such conditions as the Governor may determine and notify in the proclamation.

Further amendment of Act No. 39, 1912. Sec. 97. (False advertisements.)

7. The Principal Act is further amended—

- (a) by inserting at the end of subsection one of section ninety-seven the words “or to imprisonment for a term not exceeding six months for a first offence, and for a second offence to a penalty not less than twenty-five pounds and not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, and for a third or subsequent offence to a penalty of not less than fifty pounds and not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months, or, where such person is an individual, to both such penalty and such imprisonment”;
- (b) by inserting at the end of subsection two of the same section the following word and new paragraph:—

; or

(e) made verbally.

8. The Principal Act is further amended—

Further amendment of Act No. 39, 1912. Sec. 105. (Closing times for shops.)

- (a) (i) by inserting in subsection three of section one hundred and five after the words “butchers’ shops” the words “and chemists’ shops”;

(ii)

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(ii) by inserting next after the same subsection the following new subsection:—

(3A) The closing time for chemists' shops situate in a shopping district, whether or not employees are employed therein, shall on each week day be such time as may be fixed by any award made after the commencement of the Factories and Shops (Amendment) Act, 1943, and for the time being in force under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, for the cessation of the ordinary hours of work by employees in such shops in such district, and, where provision is made for the reopening of such shops on the day of the weekly half-holiday, opening and closing times for the reopening of such shops so situated shall be such times as may be fixed by any such award for the commencement and cessation, for the purpose of such reopening, of the ordinary hours of work by employees in such shops so situated.

(iii) by inserting next after subsection four of the same section the following new subsection:—

(4A) Where, at the commencement of the Factories and Shops (Amendment) Act, 1943, the closing time fixed by or under this Act for any class of shops (other than shops of any of the classes specified in Schedule Eight to this Act) in a shopping district is later than six o'clock in the afternoon then, as from such commencement, the closing time for such class of shops shall be six o'clock in the afternoon.

b) (i) by omitting from paragraph (a) of subsection one of section 105A the words "seven o'clock in the evening" and by inserting in lieu thereof the words "six o'clock in the afternoon";

Sec. 105A.
(Closing time for shops for sale of motor spirit, etc.)

(ii)

Factories and Shops (Amendment).

Sec. 107.
(Matters to
be dealt
with in
awards.)

- (ii) by omitting from the same paragraph the words "or late shopping night";
- (iii) by omitting from the same paragraph the words "and on the day on which such late shopping night is so observed be nine o'clock in the evening";
- (c) (i) by inserting in paragraph (a) of section one hundred and seven after the words "butchers' shops" the words "chemists' shops;"
- (ii) by inserting in the same section after the words "shopping district; and" the following new paragraph:—
 - (c1) in the case of chemists' shops the time for cessation of the ordinary hours of work for employees in such shops situate in any shopping district, and, where provision is made for reopening on the day of the weekly half-holiday the times for the commencement and cessation, for the purposes of such reopening, of the ordinary hours of work by employees in such shops so situated.
- (iii) by inserting at the end of the same section the following words:—

The time fixed by any such award for the cessation of the ordinary hours of work by employees in shops (other than shops of any of the classes specified in Schedule Eight to this Act) in any shopping district or by employees in shops for the sale of motor spirit, motor oil, or motor accessories shall not be later than six o'clock in the afternoon.

Sec. 108.
(Penalty for
not closing
shops.)

- (d) by inserting in subsection one of section one hundred and eight after the words "closing time" where secondly occurring the words "or where, in the case of chemists' shops, provision is made for the reopening of such shops on the day of the weekly half-holiday, if any such chemist's

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chemist's shop is not closed and kept closed during the remainder of such half-holiday other than such period as may be allowed for the reopening, or if in any such chemist's shop goods are offered for sale at any time during the remainder of the half-holiday other than such period."

- (e) by inserting next after Schedule Seven the following new Schedule:—

SCHEDULE EIGHT.

Chemists' shops.
Confectioners' shops.
Cooked provision shops.
Fish shops.
Flower shops.
Fruit and vegetable shops.
Newsagencies.
Refreshment shops.
Restaurants.
Tobacconists' shops.

New
Schedule
Eight.

Sees. 105,
107.

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

WAKEHURST,
Governor.

*Government House,
Sydney, 29th June, 1943.*

Articles and Order (Continued)

When a ship is not used and the crew during the remainder of such full holiday after that such period as may be allowed for the remaining of it in any such ship's home ports are allowed for such days as during the remainder of the full holiday after that such period.

(2) In the event that after the date of the first day of the full holiday...

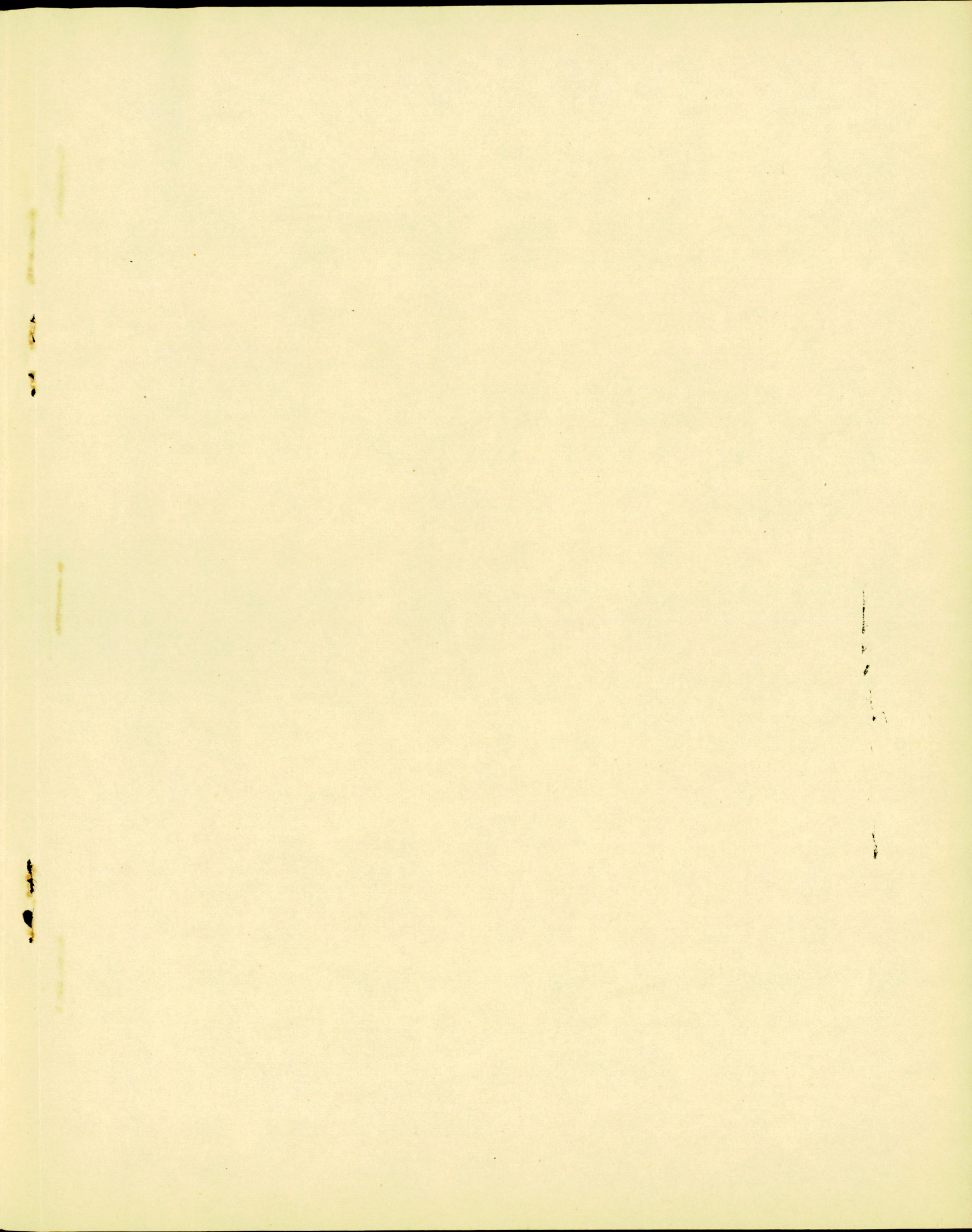
ARTICLE 18

When a ship is not used and the crew during the remainder of such full holiday after that such period as may be allowed for the remaining of it in any such ship's home ports are allowed for such days as during the remainder of the full holiday after that such period.

In the event that after the date of the first day of the full holiday...

WARRANT

Approved: _____
Secretary of the Navy



FACTORIES AND SHOPS (AMENDMENT) BILL.

*Schedule of the Legislative Council's Amendments referred to in Message of
3rd June, 1943.*

No. 1.—Page 2, clause 2, lines 20 to 29 inclusive. *Omit* all words on these lines.

No. 2.—Page 4, clause 4, line 7. *After* “produce” *insert* “**and any building in which
sheep are shorn by machinery.**”

FACTORIES AND SHOPS (AMMUNITION) BILL

Section 1. In this Act, the expression "Government" means the Government of India, and "Minister" means the Minister in charge of the Department of Munitions, and "Factory" means a factory as defined in section 2 of the Factories Act, 1947, and includes any premises in which any process is carried on in connection with the manufacture of arms, ammunition or explosives, and any premises in which any process is carried on in connection with the repair or maintenance of arms, ammunition or explosives, and any premises in which any process is carried on in connection with the manufacture of arms, ammunition or explosives, and any premises in which any process is carried on in connection with the repair or maintenance of arms, ammunition or explosives.

1947

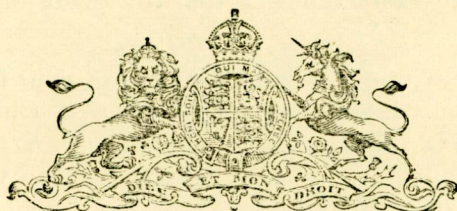
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 12 May, 1943.

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

W. K. CHARLTON,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 3rd June, 1943.

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to make further provision for and in relation to the supervision and regulation of factories and shops; to make provision for securing the safe working of boilers and pressure vessels; for these and other purposes to amend the Factories and Shops Acts, 1912-1941, in certain respects; and for purposes connected therewith.

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
5 the same, as follows:—

1. (1) This Act may be cited as the "Factories and Shops (Amendment) Act, 1943."

(2) The Factories and Shops Acts, 1912-1941, is in this Act referred to as the Principal Act.

15571

96—A

(3)

Short title,
citation and
commence-
ment.

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

Factories and Shops (Amendment).

(3) The Factories and Shops Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Factories and Shops Act, 1912-1943.

(4) This Act (other than section six) shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No.
39, 1912.
Sec. 3.
(Defini-
tions.)

(a) by inserting in section three next after the definition of "Bakehouse" the following new definition:—

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

(b) by omitting from the definition of "Child" in the same section the words "under the age of fourteen years" and by inserting in lieu thereof the words "under the school leaving age";

(c) (i) by inserting in the same section next after paragraph (d) of the definition of "Factory" the following word and new paragraph:

; or
(e) any building in which sheep are shorn by machinery.

(ii) by omitting from the same definition the words "or any woolshed used for shearing sheep";

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

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

Factories and Shops (Amendment).

3. (1) The Principal Act is further amended by inserting at the end of subsection one of section five the words—

Further amendment of Act No. 39, 1912. Sec. 5.

(Appointment of inspectors.)

5 One of such inspectors shall be appointed Chief Inspector of Factories and Shops.

(2) The person who, immediately before the commencement of this Act, held the office of Chief Inspector, Factories and Shops Act, shall be deemed to have been appointed under the Principal Act as amended by this Act as the Chief Inspector of Factories and Shops.

4. The Principal Act is further amended—

Further amendment of Act No. 39, 1912. Sec. 25.

(Ventilation, etc., in certain cases.)

(a) by inserting at the end of section twenty-five the following new subsection:—

15 (2) (a) Where in connection with any process carried on in a factory dust, fumes or other impurities are generated or given off, of such a character or to such an extent that the inhalation thereof would be likely to be injurious or offensive to the persons employed therein, effective measures shall be taken by the occupier to prevent the accumulation in any workroom of such dust, fumes, or impurities and to protect such persons against the inhalation of such dust, fumes or impurities.

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

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

35 (b) This subsection shall apply whether or not a notice has been served pursuant to subsection one of this section.

(b)

Factories and Shops (Amendment).

- (b) by inserting at the end of section thirty-three the following words:—

Sec. 33.
(Dangerous
machinery.)

5 In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce **and any building in which sheep are shorn by machinery.**

- 10 (c) (i) by omitting from subsection two of section thirty-four the word "he" and by inserting in lieu thereof the words "or where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act with respect to any factory or class or description of factories or the persons employed therein, the Minister";

Sec. 34.
(Safe-
guards.)

- 15 (ii) by inserting at the end of the same section the following new subsection:—

20 (4) The powers which are exercisable by the Minister under subsection two of this section in relation to a factory where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act, may also be exercised in relation to a building used for the manufacture of dairy produce in any case where the Factory Welfare Board has made a recommendation pursuant to that subsection in respect of any building used for the manufacture of dairy produce, and for such purposes a reference in subsection two, subsection (2A) or subsection three of this section to a factory shall be deemed to include a reference to a building used for the manufacture of dairy produce.

- 35 (d) (i) by omitting from subsection one of section 36c the words "of Factories" wherever occurring;

Sec. 36c.
(Factory
Welfare
Board.)

40

(ii)

Factories and Shops (Amendment).

5 (ii) by omitting from the same subsection the words "be appointed for a term of three years" and by inserting in lieu thereof the words "hold office for a term of seven years";

(iii) by inserting next after the same subsection the following new subsection:—

10 (1A) The persons (other than the Chief Inspector) holding office as members of the Factory Welfare Board at the commencement of the Factories and Shops (Amendment) Act, 1943, shall be deemed to have been validly appointed as such for
15 to hold office for the balance of the term of seven years commencing from the seventeenth day of June, one thousand nine hundred and forty-two.

20 (iv) by inserting at the end of the same section the following new subsections:—

25 (5) The Factory Welfare Board or any member thereof authorised by such Board under the hand of the chairman may at any reasonable time enter and inspect any premises used as a factory, and any work being carried on there. If any person hinders or obstructs the Factory Welfare Board or any member thereof in the exercise of the powers conferred by this section,
30 or hinders or obstructs a factory welfare officer in the exercise of the powers and duties prescribed under subsection four of this section, he shall be liable to a penalty not exceeding twenty pounds.

35 (6) In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce.

(e)

Factories and Shops (Amendment).

(e) (i) by inserting next after paragraph (b) of subsection one of section thirty-eight the following new paragraph:—

Sec. 38.
(Notice of accidents.)

5

(b1) an accident due to any machinery moved by mechanical power or to molten metal, hot liquid, or other hot substance, explosion, escape of gas or steam, or to electricity, or to acid or alkaline solutions which while it does not so disable any person employed in the factory as to prevent him returning to his work in the factory on the day of the accident does so disable him that he is prevented from continuing with his work in the factory on that day or from returning to his work in the factory on the next working day; or

10

15

20

(ii) by omitting from paragraph (c) of the same subsection the words "as aforesaid" and by inserting in lieu thereof the words "to any person employed in the factory as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident";

25

(f) by omitting from subsection three of section thirty-nine the words "the first floor" and by inserting in lieu thereof the words "or below the ground floor";

Sec. 39.
(Fire escapes.)

30

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

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

35

(2) No person shall be employed in any factory to work at any machine to which this subsection applies unless—

cf. 1 Edw. VIII and 1 Geo. VI, c. 67, s. 21.

(a) he has been fully instructed as to the dangers arising in connection with the machine

Factories and Shops (Amendment).

machine and the precautions to be observed in connection with the machine; and

- 5 (b) (i) he has received a sufficient training in work at the machine, or
- (ii) he is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

10 This subsection shall apply to machines of such class or description as may be prescribed by order made by the Minister being machines which, in his opinion, are of such a dangerous

15 **character** that persons ought not to work at them unless the foregoing requirements are complied with.

- (h) (i) by omitting from subsection one of section forty-three the words "any person" and by inserting in lieu thereof the words "any such person";
- 20 (ii) by inserting at the end of the same section the following new subsection:—

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

(7) Nothing in this section shall affect the operation of any award or industrial agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts; but no person shall be entitled to claim benefits under this section as well as under the award or industrial agreement.

25

- 30 (i) by omitting from subsection one of section forty-nine the word "employed" and by inserting in lieu thereof the word "engaged";
- (j) (i) by omitting from subsection one of section fifty-two the words "and subject to Part IV and Part V of this Act no prosecution shall be instituted without the authority of the Minister";
- 35

Sec. 49.
(Hours of employment in certain factories.)

Sec. 52.
(No prosecution without consent of Minister.)

(ii)

Factories and Shops (Amendment).

(ii) by inserting next after subsection one of the same section the following new subsection:—

5 (1A) Proceedings for the recovery of any penalty imposed by this Act or the regulations made thereunder may be taken and prosecuted by an inspector acting with the authority of the Minister, or by the secretary of an industrial union of employers or
10 employees whose members are engaged in the industry concerned.

No such proceedings shall be taken by any other person except where otherwise expressly provided.

15 (k) by omitting from subsection one of section fifty-four the words "except where otherwise expressly provided"; Sec. 54. (Recovery of penalties.)

20 (l) by omitting from section fifty-seven the words "liable to a penalty not exceeding two pounds, or if the offence was committed during the night, three pounds for each person so employed" and by inserting in lieu thereof the words "guilty of an offence against this Part of this Act"; Sec. 57. (Penalty for employing person contrary to Act.)

25 (m) (i) by inserting in paragraph (f) of subsection one of section sixty-two after the word "flooring" the word "lining"; Sec. 62. (Regulations.)

30 (ii) by inserting next after paragraph (t) of the same subsection the following new paragraph:—

(u) providing for the method of construction and the materials used in the roofing of factories.

5. The Principal Act is further amended—

35 (a) (i) by inserting in section three next after the definition of "Bakehouse" the following new definition:—

40 "Boiler" means any closed vessel in which for any purpose steam is generated under pressure greater than

Further amendment of Act No. 39, 1912. Sec. 3. (Interpretation.)

Factories and Shops (Amendment).

- 5 than atmospheric pressure, and includes any economiser used to heat water being fed to any such vessel, and any superheater used for heating steam and includes feed blow down and steam distribution pipe lines, fittings and connections, but does not include a boiler in any ship or a boiler used in or about a mine.
- (i)
- (ii) by inserting in the same section next after the definition of "Manufacturing process" the following new definition:—
- 15 "Maximum allowable safe working pressure" in relation to any boiler or pressure vessel means the maximum allowable safe working pressure specified in the certificate issued pursuant to the regulations and for the time being applicable to that boiler or pressure vessel.
- 20
- (iii) by inserting in the same section next after the definition of "Prescribed" the following new definition:—
- 25 "Pressure vessel" means any closed vessel not heated by fire or the products of combustion or by electrical means and subjected to pressure (including pressure due to a static head) by liquids, vapours or air or other gases but does not include cylinders for the storage and transport of compressed gases or a pressure vessel on any ship or a pressure vessel used in or about a mine.
- 30
- 35
- (b) by inserting next after subsection one of section sixty-two the following new subsection:—
- 40 (1A) The Governor may make regulations not inconsistent with this Act, prescribing all matters

Sec. 62.
(Regulations.)

Factories and Shops (Amendment).

matters necessary or convenient to be prescribed for securing the safe working and usage of boilers and pressure vessels, whether the same are in factories or not.

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

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

(g)

Factories and Shops (Amendment).

- (g) prescribing the fees to be paid in respect of all or any of the following matters:—
- 5 (i) the reviewing of designs, specifications and details of boilers and pressure vessels;
- 10 (ii) examination of candidates for licenses as boiler inspectors, for the issue of such licenses, and the annual renewal of such licenses;
- (iii) specification forms and forms for use for the purposes of the regulations by boiler inspectors;
- 15 (h) prescribing the fees to be charged by boiler inspectors;
- (i) authorising the Chief Inspector, by certificate in writing under his hand to exempt any class or type of boiler or pressure vessel from the operation of any provision of the regulations where he is satisfied that such provision cannot reasonably be applied to such class or type of boiler or pressure vessel.
- 20 Any such exemption may be absolute or
- 25 may be made subject to such conditions as the Chief Inspector may impose;
- (j) prescribing a penalty not exceeding
- 30 fifty pounds for any breach of the regulations made in relation to the matters referred to in this subsection.

6. (1) The Principal Act is further amended—

- (a) (i) by inserting in section seventy-six next after the definition of "Australia" the following new definition:—
- 35

"Boots" includes shoes and other footwear.

(ii)

Further
amendment
of Act No.
39, 1912.
Sec. 76.
(Defini-
tions.)

Factories and Shops (Amendment).

- (ii) by inserting in the same section in the definition of "False trade description" after the words "upholstered furniture" the words "or wood furniture or boots";
- 5 (iii) by omitting from the same section the definition of "Trade description" and by inserting in lieu thereof the following definitions:—
- 10 "Trade description," in relation to any bedding or upholstered furniture or wood furniture or boots, (in this definition hereinafter referred to as "goods"), means any description, statement, indication, or suggestion, direct or indirect, as to—
- 15 (a) the nature, number, quantity, quality, purity, class, grade, measure, gauge, size, or weight of the goods; or
- 20 (b) the State, country, or place in or at which the goods, or any portions or constituents thereof, were made or produced; or
- 25 (c) the manufacturer or producer of the goods or the person by whom they were selected, packed, graded, or in any way prepared for the market; or
- 30 (d) the mode of manufacturing, producing, selecting, packing, grading or otherwise preparing the goods; or
- 35 (e) the material or ingredients of which the goods are composed or from which they are derived; or
- 40 (f) the goods being the subject of an existing patent, privilege, or copyright;

and

Factories and Shops (Amendment).

5 and includes the use of any figure, word, trade name, trade style, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters.

10 “Upholstered furniture” means any upholstered settee, upholstered chair, upholstered ottoman, upholstered couch and any other article of furniture which is upholstered in a like manner.

15 “Wood furniture” means furniture of any of the following descriptions, that is to say, a wardrobe, dressing table, loughboy, bedstead, sideboard, dining table, kitchen table, office table, card table, occasional table, chair, kitchen cabinet and book-case, whether or not
20 the same is so described, and which is made wholly or mainly of wood.

25 (b) (i) by inserting in subsection one of section seventy-seven after the words “upholstered furniture” the words “or wood furniture or boots”; Sec. 77. (Trade description to be appended.)

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

30 (3) (a) Where the trade description appended to any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as “goods”) is contained in any document, card, label or other thing capable of being detached from the goods, the document,
35 card, label, or thing shall be signed by the vendor of the goods or by some person authorised to sign on his behalf, and shall be given to the purchaser at the time of the sale.

If

Factories and Shops (Amendment).

If any such document, card, label or thing is not so signed or is not so given to the purchaser of the goods, the vendor of the goods shall be guilty of an offence against this Act.

(b) In any prosecution for an offence against this Part of this Act—

(i) production of any such document, card, label or thing shall, upon proof that the same was given to the purchaser at the time of the sale of the goods the subject of the charge, be conclusive evidence that the goods were sold as goods to which the trade description contained in such document, card, label or thing was appended; and

(ii) proof that the document, card, label or thing was signed by some person apparently employed at the place of business at which the goods were sold shall be conclusive evidence that the person signing the same was authorised to do so on behalf of the vendor.

(c) by inserting in section seventy-eight after the words “upholstered furniture” wherever occurring the words “or wood furniture or boots”; Sec. 78. (Altered trade description.)

(d) by inserting in section seventy-nine after the words “upholstered furniture” wherever occurring the words “or wood furniture or boots”; Sec. 79. (False trade description.)

(e) (i) by inserting in subsection one of section eighty-one after the words “upholstered furniture” where firstly occurring the words “or wood furniture or boots”; Sec. 81. (Appending trade description.)

(ii) by omitting from paragraph (a) of the same subsection the word “itself” and by inserting in lieu thereof the words “or wood furniture itself or to the boots themselves”;

(iii)

Factories and Shops (Amendment).

- 5 (iii) by inserting in paragraphs (b), (c) and (d) of the same subsection after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- (iv) by inserting in subsections two and three of the same section after the words "upholstered furniture" the words "or wood furniture or boots";
- 10 (f) (i) by inserting in subsection one of section eighty-two after the words "upholstered furniture" the words "or wood furniture or boots"; Sec. 82. (Offences.)
- 15 (ii) by inserting in subsection two of the same section after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- 20 (g) by inserting in section eighty-three after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 83. (Sale with false trade description.)
- (h) by inserting in subsection one of section eighty-four after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 84. (Offence in course of business.)
- 25 (i) by inserting in section eighty-five after the words "upholstered furniture" the words "or wood furniture or boots"; Sec. 85. (False representations as to Royal Warrant.)
- 30 (j) (i) by omitting from section eighty-seven the words "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, 1940, as amended by subsequent Acts"; Sec. 87. (Who may prosecute.)
- 35 (ii) by inserting in the same section after the word "Minister" the words "or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned";
- (iii)

Factories and Shops (Amendment).

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

5 (2) The provisions of subsection two of section fifty-four of this Act shall extend to and in respect of proceedings under this section.

(k) (i) by inserting at the end of paragraph (a) of section ninety the following words:—

10 for a first offence, and for a second offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than twenty-five pounds and not exceeding one hundred pounds; and
15 for a third or subsequent offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than fifty pounds and not exceeding two hundred pounds, or, where such person
20 is an individual, to both such imprisonment and such penalty;

Sec. 90.
(General penalty.)

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

25 (2) Where a person is convicted of an offence against this Part of this Act in respect of the sale of any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as "goods") to which any false
30 trade description is appended the court before which he is convicted may, in addition to any penalty or punishment imposed, order that the defendant, within a period to be specified in the order—

35 (a) refund to the purchaser of the goods an amount equivalent to the purchase money paid in respect thereof; or

40 (b) supply to the purchaser goods in accordance with the trade description referred to in the charge or,
if

Factories and Shops (Amendment).

if he is unable to supply such goods, refund an amount equivalent to the purchase money paid in respect of the goods the subject of the charge.

5

The provisions of section eighty-two of the Justices Act, 1902-1940, shall, mutatis mutandis, apply to and in respect of any amount so ordered to be paid and the persons against whom the order is made.

10

(1) by inserting next after section ninety the following new section:—

New sec. 90A.

90A. (1) Where any person engaged in the business of selling by retail bedding or upholstered furniture or wood furniture or boots has been convicted three times within five years of any offence (whether of the same or different kinds) against this Part of this Act the Industrial Commission of New South Wales, upon application made as in this section provided, may, by order, prohibit such person from engaging in such business for such period as the Commission may determine.

15

Power to prohibit carrying on of business by persons convicted of numerous offences.

20

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

25

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

30

(3) Any person who engages in the business of selling by retail bedding or upholstered furniture or wood furniture or boots in contravention of an order made under this section shall be guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding two hundred pounds.

35

Factories and Shops (Amendment).

- (m) (i) by omitting from paragraph (a) of sub-
 section one of section ninety-five the word
 "is" wherever occurring and by inserting
 in lieu thereof the words "or wood furniture
 or boots are";
- (ii) by inserting in paragraph (b) of the same
 subsection after the words "upholstered
 furniture" the words "or wood furniture
 or boots";
- (iii) by inserting in paragraph (d) of the same
 subsection after the words "upholstered
 furniture" the words "or wood furniture or
 boots";
- (iv) by inserting at the end of the same para-
 graph the words "or may take samples of
 materials used in the manufacture of the
 same."

(2) Subsection one of this section shall commence
 upon a day to be appointed by the Governor and notified
 by proclamation published in the Gazette. The day so
 appointed shall be a day subsequent to the day appointed
 pursuant to subsection four of section one of this Act:

Provided that in respect of bedding, upholstered
 furniture, wood furniture and boots in the possession of
 any person at the commencement of subsection one of
 this section, the Governor may, from time to time, by
 proclamation published in the Gazette, suspend the
 operation of all or any of the amendments made by that
 subsection in their application to and in respect of bed-
 ding, or upholstered furniture, or wood furniture, or boots
 generally, or to and in respect of any particular bedding
 or upholstered furniture or wood furniture or boots; and
 any such suspension may be absolute or may be subject
 to such conditions as the Governor may determine and
 notify in the proclamation.

7. The Principal Act is further amended—

- (a) by inserting at the end of subsection one of sec-
 tion ninety-seven the words "or to imprison-
 ment for a term not exceeding six months for a
 first offence, and for a second offence to a penalty

Further
 amendment
 of Act No.
 39, 1912.
 Sec. 97.
 (False ad-
 vertise-
 ments.)

not

Factories and Shops (Amendment).

- not less than twenty-five pounds and not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, and for a third or subsequent offence to a penalty of not less than fifty pounds and not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months, or, where such person is an individual, to both such penalty and such imprisonment”;
- 5
- 10 (b) by inserting at the end of subsection two of the same section the following word and new paragraph:—
- ; or
- (e) made verbally.
- 15 **8.** The Principal Act is further amended—
- (a) (i) by inserting in subsection three of section one hundred and five after the words “butchers’ shops” the words “and chemists’ shops.”
- 20 (ii) by inserting next after the same subsection the following new subsection:—
- (3A) The closing time for chemists’ shops situate in a shopping district, whether or not employees are employed therein, shall on each week day be such time as may be fixed by any award made after the commencement of the Factories and Shops (Amendment) Act, 1943, and for the time being in force under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, for the cessation of the ordinary hours of work by employees in such shops in such district, and, where provision is made for the reopening of such shops on the day of the weekly half-holiday, opening and closing times for the reopening of such shops so situated shall be such times as may be fixed by any such award for the commencement and
- cessation

Further amendment of Act No. 39, 1912. Sec. 105. (Closing times for shops.)

Factories and Shops (Amendment).

cessation, for the purpose of such reopening, of the ordinary hours of work by employees in such shops so situated.

- 5 (iii) by inserting next after subsection four of the same section the following new subsection:—

10 (4A) Where, at the commencement of the Factories and Shops (Amendment) Act, 1943, the closing time fixed by or under this Act for any class of shops (other than shops of any of the classes specified in Schedule Eight to this Act) in a shopping district is later than six o'clock in the afternoon then, as from such commencement, the closing time for such class of shops shall be six o'clock in the afternoon.

- 15 (b) (i) by omitting from paragraph (a) of subsection one of section 105A the words "seven o'clock in the evening" and by inserting in lieu thereof the words "six o'clock in the afternoon";

Sec. 105A.
(Closing time for shops for sale of motor spirit, etc.)

- 20 (ii) by omitting from the same paragraph the words "or late shopping night";

- 25 (iii) by omitting from the same paragraph the words "and on the day on which such late shopping night is so observed be nine o'clock in the evening";

- 30 (c) (i) by inserting in paragraph (a) of section one hundred and seven after the words "butchers' shops" the words "chemists' shops";

Sec. 107.
(Matters to be dealt with in awards.)

- (ii) by inserting in the same section after the words "shopping district; and" the following new paragraph:—

35 (c1) in the case of chemists' shops the time for cessation of the ordinary hours of work for employees in such shops situate in any shopping district, and, where provision is made for reopening on the day of the

40 weekly

Factories and Shops (Amendment).

weekly half-holiday the times for the commencement and cessation, for the purposes of such reopening, of the ordinary hours of work by employees in such shops so situated.

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(iii) by inserting at the end of the same section the following words:—

The time fixed by any such award for the cessation of the ordinary hours of work by employees in shops (other than shops of any of the classes specified in Schedule Eight to this Act) in any shopping district or by employees in shops for the sale of motor spirit, motor oil, or motor accessories shall not be later than six o'clock in the afternoon.

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(d) by inserting in subsection one of section one hundred and eight after the words "closing time" where secondly occurring the words "or where, in the case of chemists' shops, provision is made for the reopening of such shops on the day of the weekly half-holiday, if any such chemist's shop is not closed and kept closed during the remainder of such half-holiday other than such period as may be allowed for the reopening, or if in any such chemist's shop goods are offered for sale at any time during the remainder of the half-holiday other than such period."

20

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(e) by inserting next after Schedule Seven the following new Schedule:—

30

SCHEDULE EIGHT.

Chemists' shops.
Confectioners' shops.
Cooked provision shops.
Fish shops.
Flower shops.
Fruit and vegetable shops.
Newsagencies.
Refreshment shops.
Restaurants.
Tobacconists' shops.

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Sec. 108.
(Penalty for
not closing
shops.)

New
Schedule
Eight.

Secs. 105,
107.

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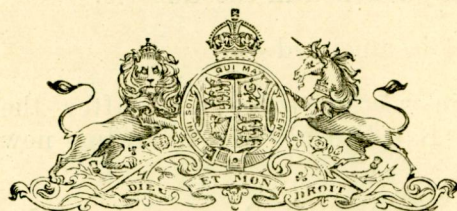
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 12 May, 1943.*

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to make further provision for and in relation to the supervision and regulation of factories and shops; to make provision for securing the safe working of boilers and pressure vessels; for these and other purposes to amend the Factories and Shops Acts, 1912-1941, in certain respects; and for purposes connected therewith.

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
5 the same, as follows:—

1. (1) This Act may be cited as the "Factories and Shops (Amendment) Act, 1943."

Short title,
citation and
commence-
ment.

(2) The Factories and Shops Acts, 1912-1941, is in this Act referred to as the Principal Act.

Factories and Shops (Amendment).

(3) The Factories and Shops Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Factories and Shops Act, 1912-1943.

(4) This Act (other than section six) shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No.
39, 1912.
Sec. 3.
(Defini-
tions.)

10 (a) by inserting in section three next after the definition of "Bakehouse" the following new definition:—

15 "Chief Inspector" means the person who for the time being holds the office of Chief Inspector of Factories and Shops or the inspector for the time being acting in the place of such person.

(b) by omitting from the definition of "Child" in the same section the words "under the age of fourteen years" and by inserting in lieu thereof the words "under the school leaving age";

20 (c) (i) by inserting in the same section next after paragraph (d) of the definition of "Factory" the following word and new paragraph:—

25 ; or
(e) any building in which sheep are shorn by machinery.

(ii) by omitting from the same definition the words "or any woolshed used for shearing sheep";

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

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

cf. Act No.
48, 1940,
s. 2.

Factories and Shops (Amendment).

3. (1) The Principal Act is further amended by inserting at the end of subsection one of section five the words—

Further amendment of Act No. 39, 1912. Sec. 5. (Appointment of inspectors.)

5 One of such inspectors shall be appointed Chief Inspector of Factories and Shops.

(2) The person who, immediately before the commencement of this Act, held the office of Chief Inspector, Factories and Shops Act, shall be deemed to have been appointed under the Principal Act as amended by this 10 Act as the Chief Inspector of Factories and Shops.

4. The Principal Act is further amended—

Further amendment of Act No. 39, 1912. Sec. 25. (Ventilation, etc., in certain cases.)

(a) by inserting at the end of section twenty-five the following new subsection:—

15 (2) (a) Where in connection with any process carried on in a factory dust, fumes or other impurities are generated or given off, of such a character or to such an extent that the inhalation thereof would be likely to be injurious or 20 offensive to the persons employed therein, effective measures shall be taken by the occupier to prevent the accumulation in any workroom of such dust, fumes, or impurities and to protect such persons against the inhalation of such dust, fumes or impurities.

25 Where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust, fumes or impurities, so as to prevent the same entering the air of any 30 workroom.

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

35 (b) This subsection shall apply whether or not a notice has been served pursuant to subsection one of this section.

(b)

Factories and Shops (Amendment).

- (b) by inserting at the end of section thirty-three the following words:—

Sec. 33.

(Dangerous machinery.)

5

In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce.

10

- (c) (i) by omitting from subsection two of section thirty-four the word "he" and by inserting in lieu thereof the words "or where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act with respect to any factory or class or description of factories or the persons employed therein, the Minister";

Sec. 34.

(Safe-guards.)

15

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

20

(4) The powers which are exercisable by the Minister under subsection two of this section in relation to a factory where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act, may also be exercised in relation to a building used for the manufacture of dairy produce in any case where the Factory Welfare Board has made a recommendation pursuant to that subsection in respect of any building used for the manufacture of dairy produce, and for such purposes a reference in subsection two, subsection (2A) or subsection three of this section to a factory shall be deemed to include a reference to a building used for the manufacture of dairy produce.

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- (d) (i) by omitting from subsection one of section 36c the words "of Factories" wherever occurring;

Sec. 36c.

(Factory Welfare Board.)

(ii)

Factories and Shops (Amendment).

5 (ii) by omitting from the same subsection the words "be appointed for a term of three years" and by inserting in lieu thereof the words "hold office for a term of seven years";

(iii) by inserting next after the same subsection the following new subsection:—

10 (1A) The persons (other than the Chief Inspector) holding office as members of the Factory Welfare Board at the commencement of the Factories and Shops (Amendment) Act, 1943, shall be deemed to have been validly appointed as such for a term of seven years, and shall continue to hold office for the balance of the term of seven years commencing from the seven-

15 teenth day of June, one thousand nine hundred and forty-two.

20 (iv) by inserting at the end of the same section the following new subsections:—

25 (5) The Factory Welfare Board or any member thereof authorised by such Board under the hand of the chairman may at any reasonable time enter and inspect any premises used as a factory, and any work being carried on there. If any person hinders or obstructs the Factory Welfare Board or any member thereof in the exercise of the powers conferred by this section, or hinders or obstructs a factory welfare officer in the exercise of the powers and duties prescribed under subsection four of this section, he shall be liable to a penalty not exceeding twenty pounds.

35 (6) In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce.

(e)

Factories and Shops (Amendment).

(e) (i) by inserting next after paragraph (b) of subsection one of section thirty-eight the following new paragraph:—

Sec. 38.
(Notice of accidents.)

5 (b1) an accident due to any machinery moved by mechanical power or to molten metal, hot liquid, or other hot substance, explosion, escape of gas or steam, or to electricity, or to acid or alkaline solutions which while it does not so disable any person employed in the factory as to prevent him returning to his work in the factory on the day of the accident does so disable him that he is prevented from continuing with his work in the factory on that day or from returning to his work in the factory on the next working day; or

20 (ii) by omitting from paragraph (c) of the same subsection the words "as aforesaid" and by inserting in lieu thereof the words "to any person employed in the factory as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident";

30 (f) by omitting from subsection three of section thirty-nine the words "the first floor" and by inserting in lieu thereof the words "or below the ground floor";

Sec. 39.
(Fire escapes.)

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

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

35 (2) No person shall be employed in any factory to work at any machine to which this subsection applies unless—

cf. 1 Edw. VIII and 1 Geo. VI, c. 67, s. 21.

(a) he has been fully instructed as to the dangers arising in connection with the machine

Factories and Shops (Amendment).

machine and the precautions to be observed in connection with the machine; and

- 5 (b) (i) he has received a sufficient training in work at the machine, or
- (ii) he is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

10 This subsection shall apply to machines of such class or description as may be prescribed by order made by the Minister being machines which, in his opinion, are of such a dangerous character that persons ought not to work at them

15 unless the foregoing requirements are complied with.

- 20 (h) (i) by omitting from subsection one of section forty-three the words "any person" and by inserting in lieu thereof the words "any such person";
- (ii) by inserting at the end of the same section the following new subsection:—

25 (7) Nothing in this section shall affect the operation of any award or industrial agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts; but no person shall be entitled to claim benefits under this section as well as under the award or industrial agreement.

- 30 (i) by omitting from subsection one of section forty-nine the word "employed" and by inserting in lieu thereof the word "engaged";
- (j) (i) by omitting from subsection one of section fifty-two the words "and subject to Part IV and Part V of this Act no prosecution shall be instituted without the authority of the Minister";

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

Sec. 49.
(Hours of employment in certain factories.)

Sec. 52.
(No prosecution without consent of Minister.)

(ii)

Factories and Shops (Amendment).

(ii) by inserting next after subsection one of the same section the following new subsection:—

5 (1A) Proceedings for the recovery of any penalty imposed by this Act or the regulations made thereunder may be taken and prosecuted by an inspector acting with the authority of the Minister, or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned.

No such proceedings shall be taken by any other person except where otherwise expressly provided.

15 (k) by omitting from subsection one of section fifty-four the words “except where otherwise expressly provided”; Sec. 54. (Recovery of penalties.)

20 (l) by omitting from section fifty-seven the words “liable to a penalty not exceeding two pounds, or if the offence was committed during the night, three pounds for each person so employed” and by inserting in lieu thereof the words “guilty of an offence against this Part of this Act”; Sec. 57. (Penalty for employing person contrary to Act.)

25 (m) (i) by inserting in paragraph (f) of subsection one of section sixty-two after the word “flooring” the word “lining”; Sec. 62. (Regulations.)

30 (ii) by inserting next after paragraph (t) of the same subsection the following new paragraph:—

(u) providing for the method of construction and the materials used in the roofing of factories.

5. The Principal Act is further amended—

35 (a) (i) by inserting in section three next after the definition of “Bakehouse” the following new definition:— Further amendment of Act No. 39, 1912. Sec. 3. (Interpretation.)

40 “Boiler” means any closed vessel in which for any purpose steam is generated under pressure greater than

Factories and Shops (Amendment).

- 5 than atmospheric pressure, and includes any economiser used to heat water being fed to any such vessel, and any superheater used for heating steam and includes feed blow down and steam distribution pipe lines, fittings and connections, but does not include a boiler in any ship or a boiler used in or about a mine.
- 10 (ii) by inserting in the same section next after the definition of "Manufacturing process" the following new definition:—
- 15 "Maximum allowable safe working pressure" in relation to any boiler or pressure vessel means the maximum allowable safe working pressure specified in the certificate issued pursuant to the regulations and for the time being applicable to that boiler or pressure vessel.
- 20 (iii) by inserting in the same section next after the definition of "Prescribed" the following new definition:—
- 25 "Pressure vessel" means any closed vessel not heated by fire or the products of combustion or by electrical means and subjected to pressure (including pressure due to a static head) by liquids, vapours or air or other gases but does not include cylinders for the storage and transport of compressed gases or a pressure vessel on any ship or a pressure vessel used in or about a mine.
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- 40 (b) by inserting next after subsection one of section sixty-two the following new subsection:—
- (1A) The Governor may make regulations not inconsistent with this Act, prescribing all matters

Sec. 62.
(Regulations.)

Factories and Shops (Amendment).

matters necessary or convenient to be prescribed for securing the safe working and usage of boilers and pressure vessels, whether the same are in factories or not.

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

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

(g)

Factories and Shops (Amendment).

- (g) prescribing the fees to be paid in respect of all or any of the following matters:—
- 5 (i) the reviewing of designs, specifications and details of boilers and pressure vessels;
- 10 (ii) examination of candidates for licenses as boiler inspectors, for the issue of such licenses, and the annual renewal of such licenses;
- (iii) specification forms and forms for use for the purposes of the regulations by boiler inspectors;
- 15 (h) prescribing the fees to be charged by boiler inspectors;
- (i) authorising the Chief Inspector, by certificate in writing under his hand to exempt any class or type of boiler or pressure vessel from the operation of any provision of the regulations where he is satisfied that such provision cannot reasonably be applied to such class or type of boiler or pressure vessel.
- 20 Any such exemption may be absolute or
- 25 may be made subject to such conditions as the Chief Inspector may impose;
- (j) prescribing a penalty not exceeding
- 30 fifty pounds for any breach of the regulations made in relation to the matters referred to in this subsection.

6. (1) The Principal Act is further amended—

- (a) (i) by inserting in section seventy-six next after the definition of "Australia" the following
- 35 new definition:—

"Boots" includes shoes and other footwear.

Further amendment of Act No. 39, 1942. Sec. 76. (Definitions.)

(ii)

Factories and Shops (Amendment).

- (ii) by inserting in the same section in the definition of "False trade description" after the words "upholstered furniture" the words "or wood furniture or boots";
- 5 (iii) by omitting from the same section the definition of "Trade description" and by inserting in lieu thereof the following definitions:—
- 10 "Trade description," in relation to any bedding or upholstered furniture or wood furniture or boots, (in this definition hereinafter referred to as "goods"), means any description, statement, indication, or suggestion,
- 15 direct or indirect, as to—
- (a) the nature, number, quantity, quality, purity, class, grade, measure, gauge, size, or weight of the goods; or
- 20 (b) the State, country, or place in or at which the goods, or any portions or constituents thereof, were made or produced; or
- 25 (c) the manufacturer or producer of the goods or the person by whom they were selected, packed, graded, or in any way prepared for the market; or
- 30 (d) the mode of manufacturing, producing, selecting, packing, grading or otherwise preparing the goods; or
- 35 (e) the material or ingredients of which the goods are composed or from which they are derived; or
- 40 (f) the goods being the subject of an existing patent, privilege, or copyright;

and

Factories and Shops (Amendment).

and includes the use of any figure, word, trade name, trade style, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters.

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“Upholstered furniture” means any upholstered settee, upholstered chair, upholstered ottoman, upholstered couch and any other article of furniture which is upholstered in a like manner.

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“Wood furniture” means furniture of any of the following descriptions, that is to say, a wardrobe, dressing table, loughboy, bedstead, sideboard, dining table, kitchen table, office table, card table, occasional table, chair, kitchen cabinet and book-case, whether or not the same is so described, and which is made wholly or mainly of wood.

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(b) (i) by inserting in subsection one of section seventy-seven after the words “upholstered furniture” the words “or wood furniture or boots”;

25

Sec. 77.
(Trade description to be appended.)

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

(3) (a) Where the trade description appended to any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as “goods”) is contained in any document, card, label or other thing capable of being detached from the goods, the document, card, label, or thing shall be signed by the vendor of the goods or by some person authorised to sign on his behalf, and shall be given to the purchaser at the time of the sale.

30

35

If

Factories and Shops (Amendment).

If any such document, card, label or thing is not so signed or is not so given to the purchaser of the goods, the vendor of the goods shall be guilty of an offence against this Act.

(b) In any prosecution for an offence against this Part of this Act—

(i) production of any such document, card, label or thing shall, upon proof that the same was given to the purchaser at the time of the sale of the goods the subject of the charge, be conclusive evidence that the goods were sold as goods to which the trade description contained in such document, card, label or thing was appended; and

(ii) proof that the document, card, label or thing was signed by some person apparently employed at the place of business at which the goods were sold shall be conclusive evidence that the person signing the same was authorised to do so on behalf of the vendor.

(c) by inserting in section seventy-eight after the words “upholstered furniture” wherever occurring the words “or wood furniture or boots”; Sec. 78. (Altered trade description.)

(d) by inserting in section seventy-nine after the words “upholstered furniture” wherever occurring the words “or wood furniture or boots”; Sec. 79. (False trade description.)

(e) (i) by inserting in subsection one of section eighty-one after the words “upholstered furniture” where firstly occurring the words “or wood furniture or boots”; Sec. 81. (Appending trade description.)

(ii) by omitting from paragraph (a) of the same subsection the word “itself” and by inserting in lieu thereof the words “or wood furniture itself or to the boots themselves”;

(iii)

Factories and Shops (Amendment).

- 5 (iii) by inserting in paragraphs (b), (c) and (d) of the same subsection after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- (iv) by inserting in subsections two and three of the same section after the words "upholstered furniture" the words "or wood furniture or boots";
- 10 (f) (i) by inserting in subsection one of section Sec. 82. eighty-two after the words "upholstered (Offences.) furniture" the words "or wood furniture or boots";
- 15 (ii) by inserting in subsection two of the same section after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- 20 (g) by inserting in section eighty-three after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 83. (Sale with false trade description.)
- (h) by inserting in subsection one of section eighty-four after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 84. (Offence in course of business.)
- 25 (i) by inserting in section eighty-five after the words "upholstered furniture" the words "or wood furniture or boots"; Sec. 85. (False representations as to Royal Warrant.)
- 30 (j) (i) by omitting from section eighty-seven the words "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, 1940, as amended by subsequent Acts"; Sec. 87. (Who may prosecute.)
- 35 (ii) by inserting in the same section after the word "Minister" the words "or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned";
- (iii)

Factories and Shops (Amendment).

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

(2) The provisions of subsection two of section fifty-four of this Act shall extend to and in respect of proceedings under this section.

(k) (i) by inserting at the end of paragraph (a) of section ninety the following words:—

Sec. 90.
(General
penalty.)

for a first offence, and for a second offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than twenty-five pounds and not exceeding one hundred pounds; and for a third or subsequent offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than fifty pounds and not exceeding two hundred pounds, or, where such person is an individual, to both such imprisonment and such penalty;

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

(2) Where a person is convicted of an offence against this Part of this Act in respect of the sale of any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as "goods") to which any false trade description is appended the court before which he is convicted may, in addition to any penalty or punishment imposed, order that the defendant, within a period to be specified in the order—

(a) refund to the purchaser of the goods an amount equivalent to the purchase money paid in respect thereof; or

(b) supply to the purchaser goods in accordance with the trade description referred to in the charge or, if

Factories and Shops (Amendment).

if he is unable to supply such goods, refund an amount equivalent to the purchase money paid in respect of the goods the subject of the charge.

5

The provisions of section eighty-two of the Justices Act, 1902-1940, shall, mutatis mutandis, apply to and in respect of any amount so ordered to be paid and the persons against whom the order is made.

10

- (1) by inserting next after section ninety the following new section:—

New sec.
90A.

90A. (1) Where any person engaged in the business of selling by retail bedding or upholstered furniture or wood furniture or boots has been convicted three times within five years of any offence (whether of the same or different kinds) against this Part of this Act the Industrial Commission of New South Wales, upon application made as in this section provided, may, by order, prohibit such person from engaging in such business for such period as the Commission may determine.

15

Power to prohibit carrying on of business by persons convicted of numerous offences.

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

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

30

(3) Any person who engages in the business of selling by retail bedding or upholstered furniture or wood furniture or boots in contravention of an order made under this section shall be guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding two hundred pounds.

35

Factories and Shops (Amendment).

- (m) (i) by omitting from paragraph (a) of sub-
 section one of section ninety-five the word
 "is" wherever occurring and by inserting
 in lieu thereof the words "or wood furniture
 or boots are";
- (ii) by inserting in paragraph (b) of the same
 subsection after the words "upholstered
 furniture" the words "or wood furniture
 or boots";
- (iii) by inserting in paragraph (d) of the same
 subsection after the words "upholstered
 furniture" the words "or wood furniture or
 boots";
- (iv) by inserting at the end of the same para-
 graph the words "or may take samples of
 materials used in the manufacture of the
 same."

(2) Subsection one of this section shall commence
 upon a day to be appointed by the Governor and notified
 by proclamation published in the Gazette. The day so
 appointed shall be a day subsequent to the day appointed
 pursuant to subsection four of section one of this Act:

Provided that in respect of bedding, upholstered
 furniture, wood furniture and boots in the possession of
 any person at the commencement of subsection one of
 this section, the Governor may, from time to time, by
 proclamation published in the Gazette, suspend the
 operation of all or any of the amendments made by that
 subsection in their application to and in respect of bed-
 ding, or upholstered furniture, or wood furniture, or boots
 generally, or to and in respect of any particular bedding
 or upholstered furniture or wood furniture or boots; and
 any such suspension may be absolute or may be subject
 to such conditions as the Governor may determine and
 notify in the proclamation.

7. The Principal Act is further amended—

- (a) by inserting at the end of subsection one of sec-
 tion ninety-seven the words "or to imprison-
 ment for a term not exceeding six months for a
 first offence, and for a second offence to a penalty
 not

Further
 amendment
 of Act No.
 39, 1912.
 Sec. 97.
 (False ad-
 vertise-
 ments.)

Factories and Shops (Amendment).

- not less than twenty-five pounds and not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, and for a third or subsequent offence to a penalty of not less than fifty pounds and not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months, or, where such person is an individual, to both such penalty and such imprisonment”;
- 5
- 10 (b) by inserting at the end of subsection two of the same section the following word and new paragraph:—

; or

(e) made verbally.

- 15 **8.** The Principal Act is further amended—

- (a) (i) by inserting in subsection three of section one hundred and five after the words “butchers’ shops” the words “and chemists’ shops.”

Further
amendment
of Act No.
39, 1912.
Sec. 105.
(Closing
times for
shops.)

- 20 (ii) by inserting next after the same subsection the following new subsection:—

- (3A) The closing time for chemists’ shops situate in a shopping district, whether or not employees are employed therein, shall on each week day be such time as may be fixed by any award made after the commencement of the Factories and Shops (Amendment) Act, 1943, and for the time being in force under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, for the cessation of the ordinary hours of work by employees in such shops in such district, and, where provision is made for the reopening of such shops on the day of the weekly half-holiday, opening and closing times for the reopening of such shops so situated shall be such times as may be fixed by any such award for the commencement and
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- cessation

Factories and Shops (Amendment).

cessation, for the purpose of such reopening, of the ordinary hours of work by employees in such shops so situated.

- 5 (iii) by inserting next after subsection four of the same section the following new subsection:—

10 (4A) Where, at the commencement of the Factories and Shops (Amendment) Act, 1943, the closing time fixed by or under this Act for any class of shops (other than shops of any of the classes specified in Schedule Eight to this Act) in a shopping district is later than six o'clock in the afternoon then, as from such commencement, the closing time for such class of shops shall be six o'clock in the afternoon.

- 20 (b) (i) by omitting from paragraph (a) of subsection one of section 105A the words "seven o'clock in the evening" and by inserting in lieu thereof the words "six o'clock in the afternoon";

Sec. 105A.
(Closing time for shops for sale of motor spirit, etc.)

- (ii) by omitting from the same paragraph the words "or late shopping night";

- 25 (iii) by omitting from the same paragraph the words "and on the day on which such late shopping night is so observed be nine o'clock in the evening";

- 30 (c) (i) by inserting in paragraph (a) of section one hundred and seven after the words "butchers' shops" the words "chemists' shops";

Sec. 107.
(Matters to be dealt with in awards.)

- (ii) by inserting in the same section after the words "shopping district; and" the following new paragraph:—

35 (c1) in the case of chemists' shops the time for cessation of the ordinary hours of work for employees in such shops situate in any shopping district, and, where provision is made for reopening on the day of the weekly

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Factories and Shops (Amendment).

weekly half-holiday the times for the commencement and cessation, for the purposes of such reopening, of the ordinary hours of work by employees in such shops so situated.

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- (iii) by inserting at the end of the same section the following words:—

The time fixed by any such award for the cessation of the ordinary hours of work by employees in shops (other than shops of any of the classes specified in Schedule Eight to this Act) in any shopping district or by employees in shops for the sale of motor spirit, motor oil, or motor accessories shall not be later than six o'clock in the afternoon.

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- (d) by inserting in subsection one of section one hundred and eight after the words "closing time" where secondly occurring the words "or where, in the case of chemists' shops, provision is made for the reopening of such shops on the day of the weekly half-holiday, if any such chemist's shop is not closed and kept closed during the remainder of such half-holiday other than such period as may be allowed for the reopening, or if in any such chemist's shop goods are offered for sale at any time during the remainder of the half-holiday other than such period."

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- (e) by inserting next after Schedule Seven the following new Schedule:—

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SCHEDULE EIGHT.

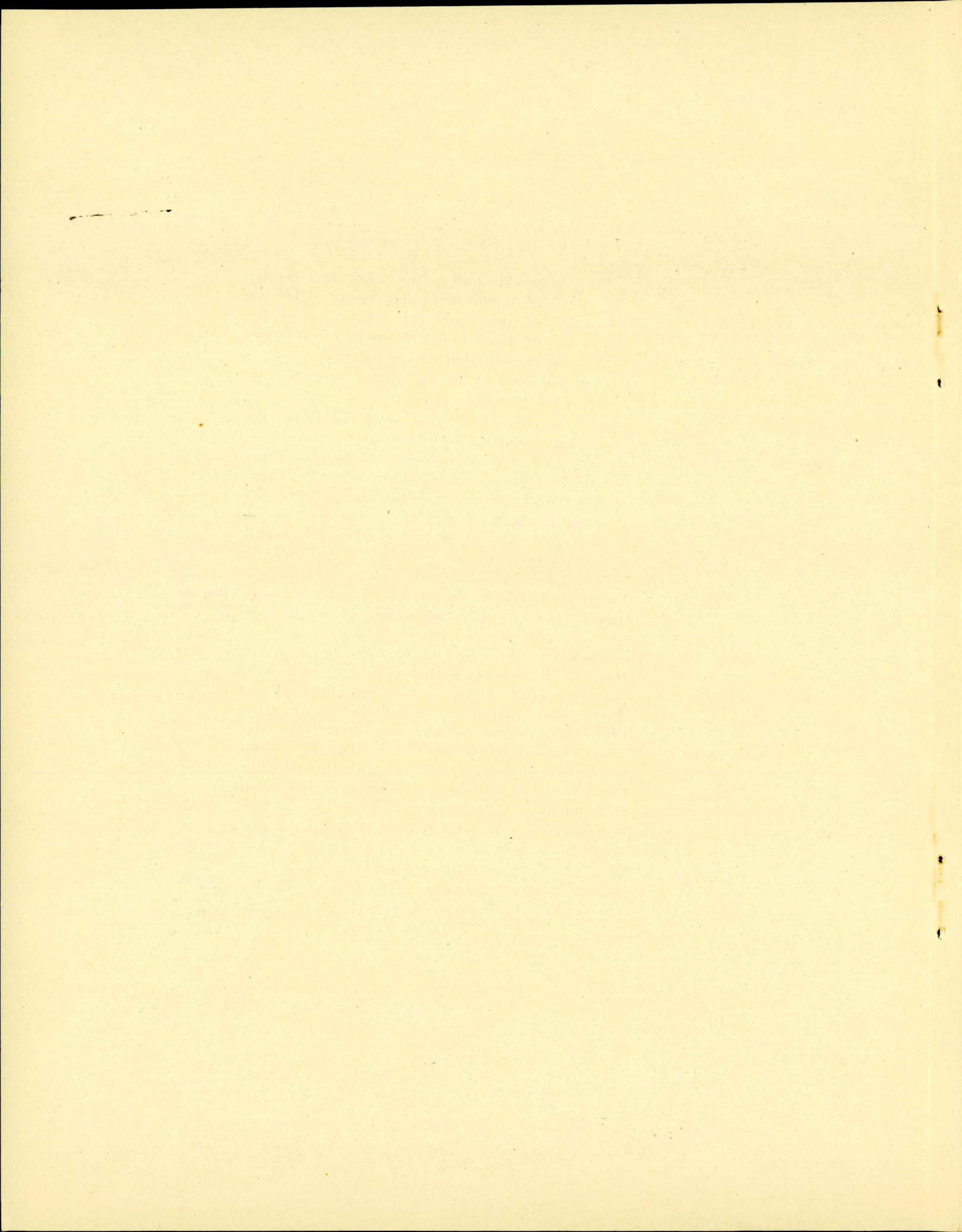
Chemists' shops.
Confectioners' shops.
Cooked provision shops.
Fish shops.
Flower shops.
Fruit and vegetable shops.
Newsagencies.
Refreshment shops.
Restaurants.
Tobacconists' shops.

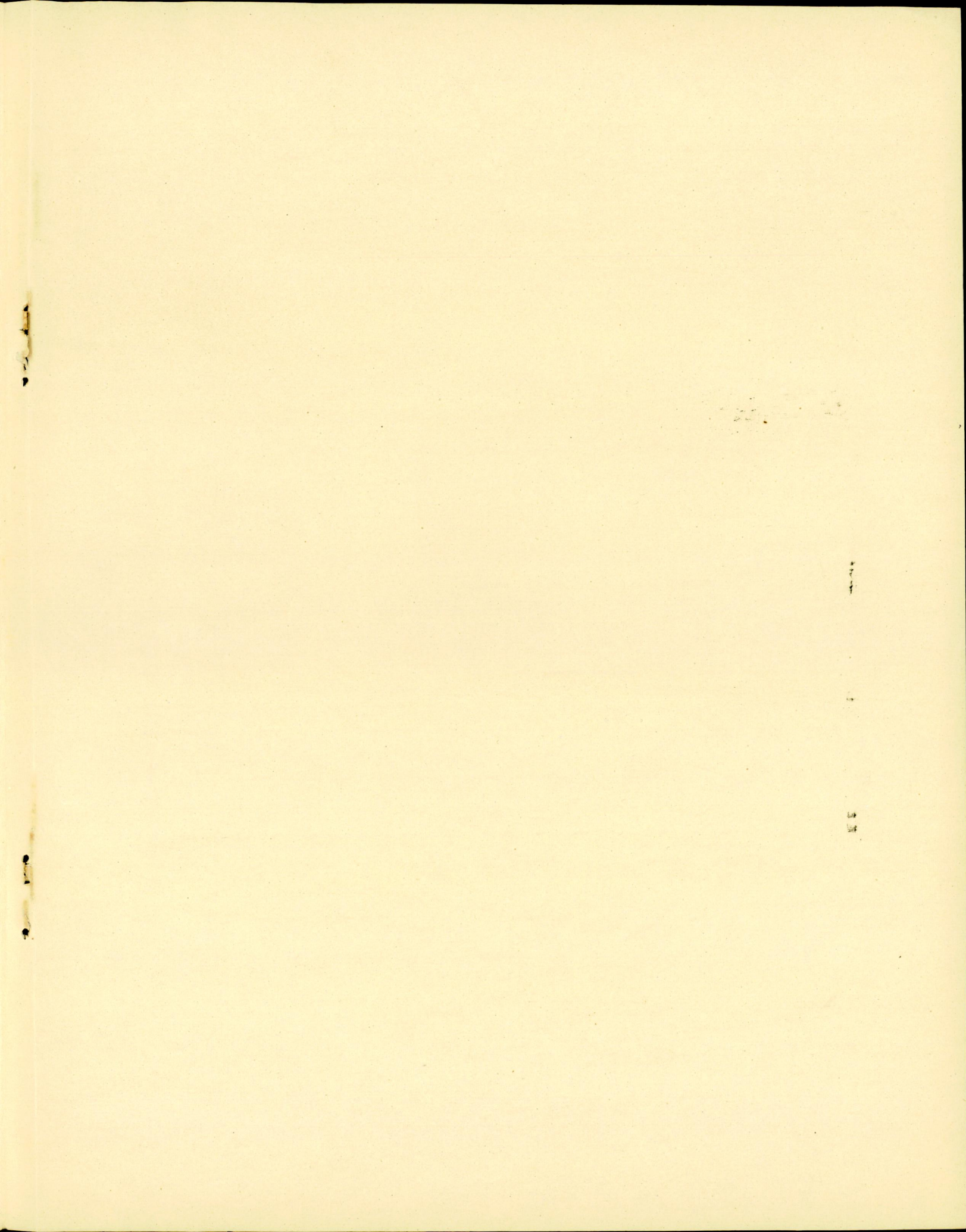
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Sec. 108.
(Penalty for not closing shops.)

New
Schedule
Eight.
Secs. 105,
107.





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1943

Parliament of New South Wales

Printed and Published by the Government Printer, Sydney

1943

15571

No. , 1943.

A BILL

To make further provision for and in relation to the supervision and regulation of factories and shops; to make provision for securing the safe working of boilers and pressure vessels; for these and other purposes to amend the Factories and Shops Acts, 1912-1941, in certain respects; and for purposes connected therewith.

[Mr. KNIGHT;—5 May, 1943.]

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 :—

1. (1) This Act may be cited as the "Factories and Shops (Amendment) Act, 1943."
- (2) The Factories and Shops Acts, 1912-1941, is in this Act referred to as the Principal Act.

Short title, citation and commencement.

Factories and Shops (Amendment).

(3) The Factories and Shops Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Factories and Shops Act, 1912-1943.

(4) This Act (other than section six) shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Principal Act is amended—

Amendment
of Act No.
39, 1912.
Sec. 3.
(Definitions.)

10 (a) by inserting in section three next after the definition of "Bakehouse" the following new definition:—

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

15 (b) by omitting from the definition of "Child" in the same section the words "under the age of fourteen years" and by inserting in lieu thereof the words "under the school leaving age";

20 (c) (i) by inserting in the same section next after paragraph (d) of the definition of "Factory" the following word and new paragraph:—

; or

25 (e) any building in which sheep are shorn by machinery.

(ii) by omitting from the same definition the words "or any woolshed used for shearing sheep";

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

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

cf. Act No.
48, 1940,
s. 2.

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Factories and Shops (Amendment).

3. (1) The Principal Act is further amended by inserting at the end of subsection one of section five the words—

Further amendment of Act No. 39, 1912. Sec. 5. (Appointment of inspectors.)

5 One of such inspectors shall be appointed Chief Inspector of Factories and Shops.

(2) The person who, immediately before the commencement of this Act, held the office of Chief Inspector, Factories and Shops Act, shall be deemed to have been appointed under the Principal Act as amended by this Act as the Chief Inspector of Factories and Shops.

4. The Principal Act is further amended—

Further amendment of Act No. 39, 1912. Sec. 25. (Ventilation, etc., in certain cases.)

(a) by inserting at the end of section twenty-five the following new subsection:—

15 (2) (a) Where in connection with any process carried on in a factory dust, fumes or other impurities are generated or given off, of such a character or to such an extent that the inhalation thereof would be likely to be injurious or offensive to the persons employed therein, effective measures shall be taken by the occupier to prevent the accumulation in any workroom of such dust, fumes, or impurities and to protect such persons against the inhalation of such dust, fumes or impurities.

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

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

35 (b) This subsection shall apply whether or not a notice has been served pursuant to subsection one of this section.

(b)

Factories and Shops (Amendment).

- (b) by inserting at the end of section thirty-three the following words:—

Sec. 33.
(Dangerous
machinery.)

5 In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce.

- (c) (i) by omitting from subsection two of section thirty-four the word "he" and by inserting in lieu thereof the words "or where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act with respect to any factory or class or description of factories or the persons employed therein, the Minister";

Sec. 34.
(Safe-
guards.)

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

20 (4) The powers which are exercisable by the Minister under subsection two of this section in relation to a factory where a recommendation is made to the Minister by the Factory Welfare Board pursuant to subsection two of section 36c of this Act, may also be exercised in relation to a building used for the manufacture of dairy produce in any case where the Factory Welfare Board has made a recommendation pursuant to that subsection in respect of any building used for the manufacture of dairy produce, and for such purposes a reference in subsection two, subsection (2A) or subsection three of this section to a factory shall be deemed to include a reference to a building used for the manufacture of dairy produce.

- (d) (i) by omitting from subsection one of section 36c the words "of Factories" wherever occurring;

Sec. 36c.
(Factory
Welfare
Board.)

(ii)

Factories and Shops (Amendment).

- 5 (ii) by omitting from the same subsection the words "be appointed for a term of three years" and by inserting in lieu thereof the words "hold office for a term of seven years";
- (iii) by inserting next after the same subsection the following new subsection:—
- 10 (1A) The persons (other than the Chief Inspector) holding office as members of the Factory Welfare Board at the commencement of the Factories and Shops (Amendment) Act, 1943, shall be deemed to have been validly appointed as such for
- 15 to hold office for the balance of the term of seven years commencing from the seventeenth day of June, one thousand nine hundred and forty-two.
- 20 (iv) by inserting at the end of the same section the following new subsections:—
- (5) The Factory Welfare Board or any member thereof authorised by such Board cf. Act No. 2, 1940, s. 128. under the hand of the chairman may at any reasonable time enter and inspect any
- 25 premises used as a factory, and any work being carried on there. If any person hinders or obstructs the Factory Welfare Board or any member thereof in the exercise of the powers conferred by this section,
- 30 or hinders or obstructs a factory welfare officer in the exercise of the powers and duties prescribed under subsection four of this section, he shall be liable to a penalty not exceeding twenty pounds.
- 35 (6) In this section the expression "factory" includes (in addition to any premises which constitute a factory as defined in section three of this Act) any building used for the manufacture of dairy produce.
- (e) (i)

Factories and Shops (Amendment).

(e) (i) by inserting next after paragraph (b) of subsection one of section thirty-eight the following new paragraph:—

Sec. 38.
(Notice of accidents.)

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(b1) an accident due to any machinery moved by mechanical power or to molten metal, hot liquid, or other hot substance, explosion, escape of gas or steam, or to electricity, or to acid or alkaline solutions which while it does not so disable any person employed in the factory as to prevent him returning to his work in the factory on the day of the accident does so disable him that he is prevented from continuing with his work in the factory on that day or from returning to his work in the factory on the next working day; or

(ii) by omitting from paragraph (c) of the same subsection the words "as aforesaid" and by inserting in lieu thereof the words "to any person employed in the factory as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident";

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(f) by omitting from subsection three of section thirty-nine the words "the first floor" and by inserting in lieu thereof the words "or below the ground floor";

Sec. 39.
(Fire escapes.)

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

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

(2) No person shall be employed in any factory to work at any machine to which this subsection applies unless—

cf. 1 Edw. VIII and 1 Geo. VI, c. 67, s. 21.

(a) he has been fully instructed as to the dangers arising in connection with the machine

Factories and Shops (Amendment).

machine and the precautions to be observed in connection with the machine; and

- 5 (b) (i) he has received a sufficient training in work at the machine, or
- (ii) he is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

10 This subsection shall apply to machines of such class or description as may be prescribed by order made by the Minister being machines which, in his opinion, are of such a dangerous character that persons ought not to work at them

15 unless the foregoing requirements are complied with.

- 20 (h) (i) by omitting from subsection one of section forty-three the words "any person" and by inserting in lieu thereof the words "any such person";
- (ii) by inserting at the end of the same section the following new subsection:—

25 (7) Nothing in this section shall affect the operation of any award or industrial agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts; but no person shall be entitled to claim benefits under this section as well as under the award or industrial agreement.

- 30 (i) by omitting from subsection one of section forty-nine the word "employed" and by inserting in lieu thereof the word "engaged";
- (j) (i) by omitting from subsection one of section fifty-two the words "and subject to Part IV and Part V of this Act no prosecution shall be instituted without the authority of the Minister";

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

Sec. 49.
(Hours of employment in certain factories.)

Sec. 52.
(No prosecution without consent of Minister.)

(ii)

Factories and Shops (Amendment).

(ii) by inserting next after subsection one of the same section the following new subsection:—

5 (1A) Proceedings for the recovery of any penalty imposed by this Act or the regulations made thereunder may be taken and prosecuted by an inspector acting with the authority of the Minister, or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned.

No such proceedings shall be taken by any other person except where otherwise expressly provided.

15 (k) by omitting from subsection one of section fifty-four the words "except where otherwise expressly provided"; Sec. 54. (Recovery of penalties.)

20 (l) by omitting from section fifty-seven the words "liable to a penalty not exceeding two pounds, or if the offence was committed during the night, three pounds for each person so employed" and by inserting in lieu thereof the words "guilty of an offence against this Part of this Act"; Sec. 57. (Penalty for employing person contrary to Act.)

25 (m) (i) by inserting in paragraph (f) of subsection one of section sixty-two after the word "flooring" the word "lining"; Sec. 62. (Regulations.)

(ii) by inserting next after paragraph (t) of the same subsection the following new paragraph:—

30 (u) providing for the method of construction and the materials used in the roofing of factories.

5. The Principal Act is further amended—

35 (a) (i) by inserting in section three next after the definition of "Bakehouse" the following new definition:— Further amendment of Act No. 39, 1912. Sec. 3. (Interpretation.)

40 "Boiler" means any closed vessel in which for any purpose steam is generated under pressure greater than

Factories and Shops (Amendment).

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

(ii) by inserting in the same section next after the definition of "Manufacturing process" the following new definition:—

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

(iii) by inserting in the same section next after the definition of "Prescribed" the following new definition:—

"Pressure vessel" means any closed vessel not heated by fire or the products of combustion or by electrical means and subjected to pressure (including pressure due to a static head) by liquids, vapours or air or other gases but does not include cylinders for the storage and transport of compressed gases or a pressure vessel on any ship or a pressure vessel used in or about a mine.

(b) by inserting next after subsection one of section sixty-two the following new subsection:—

(1A) The Governor may make regulations not inconsistent with this Act, prescribing all matters

Sec. 62.
(Regulations.)

Factories and Shops (Amendment).

matters necessary or convenient to be prescribed for securing the safe working and usage of boilers and pressure vessels, whether the same are in factories or not.

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

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

(g)

Factories and Shops (Amendment).

- (g) prescribing the fees to be paid in respect of all or any of the following matters:—
- 5 (i) the reviewing of designs, specifications and details of boilers and pressure vessels;
- 10 (ii) examination of candidates for licenses as boiler inspectors, for the issue of such licenses, and the annual renewal of such licenses;
- (iii) specification forms and forms for use for the purposes of the regulations by boiler inspectors;
- 15 (h) prescribing the fees to be charged by boiler inspectors;
- (i) authorising the Chief Inspector, by certificate in writing under his hand to exempt any class or type of boiler or pressure vessel from the operation of any provision of the regulations where he is satisfied that such provision cannot reasonably be applied to such class or type of boiler or pressure vessel.
- 20 Any such exemption may be absolute or may be made subject to such conditions as the Chief Inspector may impose;
- 25 (j) prescribing a penalty not exceeding fifty pounds for any breach of the regulations made in relation to the matters referred to in this subsection.
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6. (1) The Principal Act is further amended—
- (a) (i) by inserting in section seventy-six next after the definition of "Australia" the following new definition:—
- 35 "Boots" includes shoes and other footwear.
- (ii)

Further
amendment
of Act No.
39, 1912.
Sec. 76.
(Definitions.)

Factories and Shops (Amendment).

- (ii) by inserting in the same section in the definition of "False trade description" after the words "upholstered furniture" the words "or wood furniture or boots";
- 5 (iii) by omitting from the same section the definition of "Trade description" and by inserting in lieu thereof the following definitions:—
- 10 "Trade description," in relation to any bedding or upholstered furniture or wood furniture or boots, (in this definition hereinafter referred to as "goods"), means any description, statement, indication, or suggestion,
- 15 direct or indirect, as to—
- (a) the nature, number, quantity, quality, purity, class, grade, measure, gauge, size, or weight of the goods; or
- 20 (b) the State, country; or place in or at which the goods, or any portions or constituents thereof, were made or produced; or
- 25 (c) the manufacturer or producer of the goods or the person by whom they were selected, packed, graded, or in any way prepared for the market; or
- 30 (d) the mode of manufacturing, producing, selecting, packing, grading or otherwise preparing the goods; or
- 35 (e) the material or ingredients of which the goods are composed or from which they are derived; or
- 40 (f) the goods being the subject of an existing patent, privilege, or copyright;

and

Factories and Shops (Amendment).

and includes the use of any figure, word, trade name, trade style, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters.

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“Upholstered furniture” means any upholstered settee, upholstered chair, upholstered ottoman, upholstered couch and any other article of furniture which is upholstered in a like manner.

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“Wood furniture” means furniture of any of the following descriptions, that is to say, a wardrobe, dressing table, loughboy, bedstead, sideboard, dining table, kitchen table, office table, card table, occasional table, chair, kitchen cabinet and book-case, whether or not the same is so described, and which is made wholly or mainly of wood.

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(b) (i) by inserting in subsection one of section seventy-seven after the words “upholstered furniture” the words “or wood furniture or boots”;

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Sec. 77.
(Trade description to be appended.)

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

(3) (a) Where the trade description appended to any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as “goods”) is contained in any document, card, label or other thing capable of being detached from the goods, the document, card, label, or thing shall be signed by the vendor of the goods or by some person authorised to sign on his behalf, and shall be given to the purchaser at the time of the sale.

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If

Factories and Shops (Amendment).

If any such document, card, label or thing is not so signed or is not so given to the purchaser of the goods, the vendor of the goods shall be guilty of an offence against this Act.

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(b) In any prosecution for an offence against this Part of this Act—

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(i) production of any such document, card, label or thing shall, upon proof that the same was given to the purchaser at the time of the sale of the goods the subject of the charge, be conclusive evidence that the goods were sold as goods to which the trade description contained in such document, card, label or thing was appended; and

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(ii) proof that the document, card, label or thing was signed by some person apparently employed at the place of business at which the goods were sold shall be conclusive evidence that the person signing the same was authorised to do so on behalf of the vendor.

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(c) by inserting in section seventy-eight after the words “upholstered furniture” wherever occurring the words “or wood furniture or boots”;

Sec. 78.
(Altered trade description.)

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(d) by inserting in section seventy-nine after the words “upholstered furniture” wherever occurring the words “or wood furniture or boots”;

Sec. 79.
(False trade description.)

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(e) (i) by inserting in subsection one of section eighty-one after the words “upholstered furniture” where firstly occurring the words “or wood furniture or boots”;

Sec. 81.
(Appending trade description.)

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(ii) by omitting from paragraph (a) of the same subsection the word “itself” and by inserting in lieu thereof the words “or wood furniture itself or to the boots themselves”;

(iii)

Factories and Shops (Amendment).

- 5 (iii) by inserting in paragraphs (b), (c) and (d) of the same subsection after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- (iv) by inserting in subsections two and three of the same section after the words "upholstered furniture" the words "or wood furniture or boots";
- 10 (f) (i) by inserting in subsection one of section eighty-two after the words "upholstered furniture" the words "or wood furniture or boots"; Sec. 82. (Offences.)
- 15 (ii) by inserting in subsection two of the same section after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots";
- 20 (g) by inserting in section eighty-three after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 83. (Sale with false trade description.)
- (h) by inserting in subsection one of section eighty-four after the words "upholstered furniture" wherever occurring the words "or wood furniture or boots"; Sec. 84. (Offence in course of business.)
- 25 (i) by inserting in section eighty-five after the words "upholstered furniture" the words "or wood furniture or boots"; Sec. 85. (False representations as to Royal Warrant.)
- 30 (j) (i) by omitting from section eighty-seven the words "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, 1940, as amended by subsequent Acts"; Sec. 87. (Who may prosecute.)
- 35 (ii) by inserting in the same section after the word "Minister" the words "or by the secretary of an industrial union of employers or employees whose members are engaged in the industry concerned";
- (iii)

Factories and Shops (Amendment).

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

(2) The provisions of subsection two of section fifty-four of this Act shall extend to and in respect of proceedings under this section.

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(k) (i) by inserting at the end of paragraph (a) of section ninety the following words:—

Sec. 90.
(General
penalty.)

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for a first offence, and for a second offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than twenty-five pounds and not exceeding one hundred pounds; and for a third or subsequent offence to imprisonment for a term not exceeding twelve months or to a penalty of not less than fifty pounds and not exceeding two hundred pounds, or, where such person is an individual, to both such imprisonment and such penalty;

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

(2) Where a person is convicted of an offence against this Part of this Act in respect of the sale of any bedding or upholstered furniture or wood furniture or boots (in this subsection hereinafter referred to as "goods") to which any false trade description is appended the court before which he is convicted may, in addition to any penalty or punishment imposed, order that the defendant, within a period to be specified in the order—

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(a) refund to the purchaser of the goods an amount equivalent to the purchase money paid in respect thereof; or

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(b) supply to the purchaser goods in accordance with the trade description referred to in the charge or, if

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Factories and Shops (Amendment).

if he is unable to supply such goods, refund an amount equivalent to the purchase money paid in respect of the goods the subject of the charge.

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The provisions of section eighty-two of the Justices Act, 1902-1940, shall, mutatis mutandis, apply to and in respect of any amount so ordered to be paid and the persons against whom the order is made.

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- (1) by inserting next after section ninety the following new section:—

New sec.
90A.

90A. (1) Where any person engaged in the business of selling by retail bedding or upholstered furniture or wood furniture or boots has been convicted three times within five years of any offence (whether of the same or different kinds) against this Part of this Act the Industrial Commission of New South Wales, upon application made as in this section provided, may, by order, prohibit such person from engaging in such business for such period as the Commission may determine.

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Power to prohibit carrying on of business by persons convicted of numerous offences.

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

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

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(3) Any person who engages in the business of selling by retail bedding or upholstered furniture or wood furniture or boots in contravention of an order made under this section shall be guilty of an offence against this Part of this Act and shall be liable to a penalty not exceeding two hundred pounds.

Factories and Shops (Amendment).

- (m) (i) by omitting from paragraph (a) of subsection one of section ninety-five the word "is" wherever occurring and by inserting in lieu thereof the words "or wood furniture or boots are";
- 5 (ii) by inserting in paragraph (b) of the same subsection after the words "upholstered furniture" the words "or wood furniture or boots";
- 10 (iii) by inserting in paragraph (d) of the same subsection after the words "upholstered furniture" the words "or wood furniture or boots";
- 15 (iv) by inserting at the end of the same paragraph the words "or may take samples of materials used in the manufacture of the same."

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. The day so appointed shall be a day subsequent to the day appointed pursuant to subsection four of section one of this Act:

25 Provided that in respect of bedding, upholstered furniture, wood furniture and boots in the possession of any person at the commencement of subsection one of this section, the Governor may, from time to time, by proclamation published in the Gazette, suspend the operation of all or any of the amendments made by that subsection in their application to and in respect of bedding, or upholstered furniture, or wood furniture, or boots generally, or to and in respect of any particular bedding or upholstered furniture or wood furniture or boots; and any such suspension may be absolute or may be subject to such conditions as the Governor may determine and

35 notify in the proclamation.

7. The Principal Act is further amended—

- (a) by inserting at the end of subsection one of section ninety-seven the words "or to imprisonment for a term not exceeding six months for a first offence, and for a second offence to a penalty
- 40 not

Sec. 95.
(Powers of
inspectors.)

Further
amendment
of Act No.
39, 1912.
Sec. 97.
(False ad-
vertise-
ments.)

Factories and Shops (Amendment).

not less than twenty-five pounds and not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, and for a third or subsequent offence to a penalty of not less than fifty pounds and not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months, or, where such person is an individual, to both such penalty and such imprisonment”;

(b) by inserting at the end of subsection two of the same section the following word and new paragraph:—

; or

(e) made verbally.

8. The Principal Act is further amended—

(a) by inserting next after subsection four of section one hundred and five the following new subsection:—

(4A) Where, at the commencement of the Factories and Shops (Amendment) Act, 1943, the closing time fixed by or under this Act for any class of shops (other than shops of any of the classes specified in Schedule Eight to this Act) in a shopping district is later than six o'clock in the afternoon then, as from such commencement, the closing time for such class of shops shall be six o'clock in the afternoon.

(b) (i) by omitting from paragraph (a) of subsection one of section 105A the words “seven o'clock in the evening” and by inserting in lieu thereof the words “six o'clock in the afternoon”;

(ii) by omitting from the same paragraph the words “or late shopping night”;

(iii) by omitting from the same paragraph the words “and on the day on which such late shopping night is so observed be nine o'clock in the evening”;

(c)

Further amendment of Act No. 39, 1912. Sec. 105. (Closing times for shops.)

Sec. 105A. (Closing time for shops for sale of motor spirit, etc.)

Factories and Shops (Amendment).

- (c) by inserting at the end of section one hundred and seven the following words:—

Sec. 107.
(Matters to
be dealt
with in
awards.)

5 The time fixed by any such award for the
cessation of the ordinary hours of work by
employees in shops (other than shops of any of
the classes specified in Schedule Eight to this
Act) in any shopping district or by employees
10 in shops for the sale of motor spirit, motor oil,
or motor accessories shall not be later than six
o'clock in the afternoon.

- (d) by inserting next after Schedule Seven the following new Schedule:—

New
Schedule
Eight.

SCHEDULE EIGHT.

Secs. 105,
107.

15 Chemists' shops.
Confectioners' shops.
Cooked provision shops.
Fish shops.
Flower shops.
20 Fruit and vegetable shops.
Newsagencies.
Refreshment shops.
Restaurants.
Tobacconists' shops.