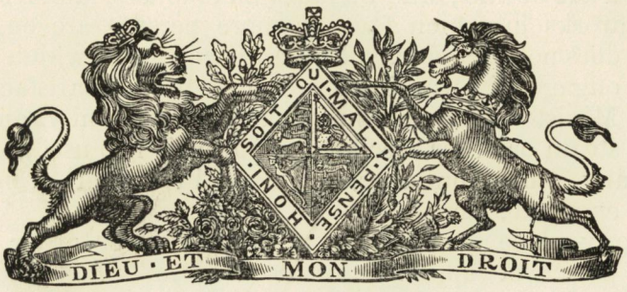

# New South Wales.

ANNO SEXAGESIMO

# VICTORIÆ REGINÆ.

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## No. XXXVII.

An Act to make provision for the supervision and regulation of Factories, Bakehouses, Laundries, Dye-works, and Shops; for the limitation in certain cases of the hours of working therein; to extend the liability of employers for injuries suffered by employees in certain cases; and for other purposes. [Assented to, 16th November, 1896.]

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

Short title.

1. This Act shall come into force on the first day of January, one thousand eight hundred and ninety-seven (hereinafter referred to as the commencement of the Act), and may be cited as the "Factories and Shops Act of 1896." It is divided into seven Parts, embracing the following subjects, that is to say:—

PART I.—*Appointments—Registration and inspection.*
PART II.—*Records.*
PART III.—*Sanitary arrangements, &c.*
PART IV.—*Fencing of machinery—Protection from fire.*
PART V.—*Ages of persons employed and certificates.*
PART VI.—*Shops.*
PART VII.—*Miscellaneous.*

Interpretation.

2. In this Act, unless the context requires another meaning,—

"Child" means any person under the age of fourteen years.

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

"Factory" means—

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

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

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

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

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

"Governor" means the Governor, with the advice of the Executive Council.

"Inspector" means an inspector of factories and shops, appointed under this Act.

"Minister" means the Minister for the time being administering this Act.

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

"Prescribed" means prescribed by this Act or regulations under this Act.

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

"Shopkeeper" means the occupier of a shop.

Act to apply only to declared districts.

3. (I) This Act shall apply only to such localities as are declared by the Governor, by proclamation in the *Gazette*, to be a district or districts for the purposes of this Act.

Factories may be exempted.

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

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

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PART

## PART I.

*Appointment of inspectors; registration and inspection of factories, and inspection of shops.*

Appointment of inspectors.

4. The Governor may appoint so many inspectors of factories and shops as may appear necessary for carrying into effect the provisions of this Act.

Registration of existing factories.

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

Registration of new factories.

6. (I) Every person intending to go into occupation of any unregistered factory shall, not less than seven days before going into occupation, and

(II) Every person in occupation of any tenement which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall, not less than seven days before it is so used as a factory,

forward to the inspector of the district or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice shall register the building and issue a certificate of registration to the person giving such notice.

Any occupier or intending occupier who fails to comply with the provisions of this section shall be liable to a penalty not exceeding ten pounds.

Powers of inspectors.

7. Every inspector shall have power—

(I) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;

(II) to take with him in either case an officer of health or inspector of nuisances; or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;

(III) to require the production of the certificate of registration of any factory, or any book, notice, record, list, or document which is by this Act, or the regulations thereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;

(IV) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;

(V) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined;

(vi) to exercise all other powers that may be necessary for carrying out the provisions of this Act, or of such provisions of any Act relating to public health as the Governor may from time to time determine.

Occupiers to allow entry and inspection.

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

Obstructing an inspector.

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

Inspector to produce certificate of appointment.

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

Penalty for forging certificate, &c.

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

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## PART II.

### *Records.*

Records to be kept.

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

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

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

(*a*) the name and address of the inspector for the district;

(*b*) the usual working hours of the factory.

Scale of wages and piecework to be furnished to the Minister on demand.

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

Record of outside work.

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

(*a*) the name of every person employed by him in the business of a factory outside such factory;

(*b*) the places where those persons are employed;

(*c*) the rate of payment in each instance.

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

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

Occupier for purposes of this section.

15. Every person who, whether as principal, contractor, sub-contractor, or otherwise, directly or indirectly issues or gives out, or authorises or permits to be issued or given out, any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale, shall be deemed to be the occupier of a factory for the purposes of the last preceding section; and the person to whom such material is issued or given out shall, for the purposes of the said section, be deemed to be employed by the occupier in the business of the factory outside such factory.

Inspector not to divulge contents of records.

16. Any inspector who divulges the contents of any record or makes use of his knowledge of the contents thereof, except to the Minister or for the purposes of this Act or for enforcing the provisions thereof, or for statistical purposes in connection with a Department of the Public Service, shall be liable to a penalty not exceeding fifty pounds, or to imprisonment with hard labour for any term not exceeding six months.

Annual report.

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

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## PART III.

### *Sanitary arrangements, &c.*

Factories and shops to be kept clean and well ventilated.

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

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

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

Painting, varnishing, and washing of the interior of factories.

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

If

Papered walls.

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

Evidence of lime-washing, painting, &c.

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

Power to Minister to exempt certain factories.

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

Exemptions.

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

Bakehouses not to be used as sleeping places.

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

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

Privies, &c., not to communicate with bakehouse.

(II) no earth, or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse;

(III) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet;

(IV) no drain-pipe for carrying off fæcal or sewage matter shall have an opening within the bakehouse.

Penalty for above.

Any person who lets or occupies, or continues to let or knowingly suffers to be occupied, any place in which there is a breach of the provisions of this section shall be liable to a penalty not exceeding for the first offence twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds.

Meals not to be taken in factories in certain cases.

22. The Minister may, by notice in writing, forbid the occupier of a factory to permit any employees therein to take their meals in any room while work is being carried on therein, and may direct an occupier to erect or provide a suitable room or place in the factory or in connection therewith for the purpose of a dining or eating room for employees in such factory.

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

Ventilation, &c., in certain cases.

23. If it appear to the inspector that—

(*a*) in a factory where grinding, glazing, or polishing on a wheel, or any other process is carried on whereby dust is generated which is inhaled by the employees to an injurious extent, such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means of ventilation; or

(*b*)

(*b*) in a factory in which atmospheric humidity is artificially produced by steaming or other mechanical appliances whereby the health of the employees is or may be injuriously affected, such humidity could be to a great extent lessened by the adoption of a sufficient means of prevention; Humidity by steaming, &c.

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

24. (I) Every occupier of a factory or shop shall cause to be provided suitable sitting accommodation for all females employed in his shop in the proportion of one seat to every three females employed, and such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided. Sitting accommodation for females.

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

25. If any occupier within the meaning of section fifteen causes or allows wearing apparel to be made, cleaned, or repaired in any building, any inmate of which is suffering from leprosy, small-pox, asiatic cholera, typhoid fever, scarlet fever, diphtheria, membranous croup, or such other disease as may be declared to be an infectious disease under the provisions of any Public Health Act now or hereafter in force in New South Wales, he shall be liable to a penalty not exceeding fifty pounds, unless he proves that he was not aware of the existence of the illness in the building, and could not reasonably have been expected to become aware of it. Avoidance of infection.

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## PART IV.

### *The fencing of machinery and protection from fire.*

26. The traversing carriage of any self-acting machine erected after the commencement of this Act shall not be allowed to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is likely to pass, whether in the course of his employment or otherwise. Traversing carriage of self-acting machine.

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

(*a*) that the person so placed in charge was incompetent;

(*b*) that the defendant was guilty of negligence in employing him;

(*c*) that the plaintiff was injured through that person's incompetence,

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

28. The occupier of a factory shall securely fence all dangerous parts of the machinery therein, and with respect to such fencing the following provisions shall have effect:— Dangerous machinery to be fenced.

(I) every hoist or teagle and every fly-wheel directly connected with the steam or water or other mechanical power whether in

in the engine-house or not, and every part of a steam-engine and water wheel shall be securely fenced; and

(II) every wheel-race not otherwise secured shall be securely fenced close to the edge of the wheel-race; and

(III) every part of the mill gearing shall either be securely fenced or be in such position or of such construction as to be equally safe to every person employed in the factory or workroom as it would be if it were securely fenced; and

(IV) all fencing shall be constantly maintained in an efficient state while the parts required to be fenced are in motion or use for the purpose of any manufacturing process.

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

Safeguards from machinery to be provided.

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

(I) the inspector shall serve on the occupier of the factory a written notice to fence the machinery which he considers dangerous as aforesaid;

(II) the occupier within seven days from the receipt of such notice may serve on the inspector a written requisition to refer the matter to arbitration, and, thereupon, the matter shall be referred to arbitration, to be conducted under the regulations;

(III) if the arbitrators or their umpire decide that it is unnecessary or impracticable to fence the machinery alleged in the notice to be dangerous, the notice shall be cancelled and the occupier shall not be required to fence in pursuance thereof, and the costs of the reference shall be paid as the expenses of the inspector under this Act;

(IV) if the occupier does not within the said seven days serve on the inspector a requisition to refer the matter to arbitration, or does not appoint an arbitrator within the time required by the regulations, or if the arbitrators or the umpire decide that it is necessary and practicable to fence the machinery alleged in the notice to be dangerous, the occupier shall securely fence such machinery in accordance with the notice, or with the award of the arbitrators or umpire, if it modifies the notice, and the costs of the reference shall be borne by either or both parties to the arbitration as the arbitrators or the umpire may decide, and any portion of the costs to be borne by the occupier shall be a debt due by him to the inspector, and shall be recoverable in any court of competent jurisdiction;

(V) if the occupier of a factory fails to comply within a reasonable time with the notice or award, or fails to keep the said machinery securely fenced in accordance therewith, or fails to constantly maintain such fencing in an efficient state while the machinery required to be fenced is in motion, the factory shall be deemed not to be kept in conformity with this Act.

Dangerous machinery.

30. The Minister may on complaint by an inspector, and on being satisfied that any machine used in a factory is in such a condition that it cannot be used without danger to life or limb, by order prohibit such machine from being used, or (if it is capable of repair or alteration) from being

being used until it is duly repaired or altered to the Minister's satisfaction on the report of the inspector. Any employer who disobeys such order shall for each offence be liable to a penalty not exceeding ten pounds for every day on which the machine is used in contravention of the order.

Hoists and lifts to be protected.

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

Unsafe or dangerous elevator or lift.

(II) If an elevator or lift in a factory or shop used for the conveyance of employees or other persons is considered by an inspector to be unsafe or dangerous to use, he may prohibit the occupier or shopkeeper from using such elevator or lift until it is made safe to the inspector's satisfaction. Should any occupier or shopkeeper use, or permit to be used, such elevator or lift at any time whilst its use is so prohibited, he shall be liable to a penalty of twenty shillings for each time such elevator or lift is so used.

Restriction on employment of females and males under certain ages.

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

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

(*a*) to clean such part of the machinery in a factory as is mill gearing while the same is in motion for the purpose of propelling any part of the manufacturing machinery; or

(*b*) to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water, or other mechanical power.

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

Accidents in factories.

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

(*a*) causes loss of life to an employee in the factory; or

(*b*) causes bodily injury to any employee in the factory, such as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident,

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

Doors to open outwardly.

34. (I) In every factory erected after the passing of this Act, and in which ten or more persons are employed, and in any existing factory where the Minister by notice in writing may so require, the main inside and outside doors shall open outwards, and all the doors of every room in a factory, in which persons are actually at work, or of passages leading to such rooms, or serving as entrances and exits shall neither be locked, bolted, nor barred during working hours.

Extinguishing fire.

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

Means of escape from fire.

(III) Every factory three or more storeys in height, in which persons are employed above the second storey, shall be furnished with

with a certificate from the inspector that the factory is provided with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case.

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

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## PART V.

### *Ages of persons employed in factories and certificates.*

No child to be employed.

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

Interval for meals in certain cases.

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

Hours of employment may be extended under certain conditions.

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

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

No such person, however, may be employed overtime on more than three consecutive days, and such overtime shall be paid for at the rate of time and a half.

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

Restriction in certain class of employment.

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

Certificate of fitness.

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

(II) A certificate of fitness for the purposes of this Act may be granted by any legally qualified medical practitioner, and shall be to the effect that he is satisfied by the production of a certificate of birth or other sufficient evidence that the person named in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

(III) The certificate of birth which shall be produced to such legally qualified medical practitioner may be either—

(*a*) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the Registration of Births of the birth of the person (and such certificate of birth shall be given by the registrar without fee); or

(*b*)

(*b*) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

(IV) The occupier shall, when required, produce to an inspector at the factory at which a person under sixteen years of age is employed the certificate of fitness of such person for employment which he is required to obtain under this section.

Limitation of employment for young persons.

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

(*a*) in any factory;

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

between the hours of seven o'clock in the evening and six o'clock in the morning, unless in the case of overtime, and subject to the restrictions contained in section thirty-seven:

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

Where person under sixteen incapacitated for working daily.

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

Female not to be employed for four weeks after confinement.

42. No female shall be employed during the four weeks immediately after her confinement.

## PART VI.

### *Shops.*

Limitation of hours of work in certain cases.

43. (I) Except as hereinafter provided, a male under sixteen years of age or a female under eighteen years of age shall not work in or in connection with any shop for a longer time than fifty-two hours in any one week, or for a longer time than nine and a half hours in any one day, except on one day in each week, when eleven and a half hours work may be done, but such shall not apply to the occupier of a shop or any member of the occupier's family employed in such shop.

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

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

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

(v) The occupier of a shop in which or in connection with which any contravention of this section occurs shall on conviction be liable to a penalty for the first offence of not more than two pounds, and for every subsequent offence of not less than two pounds or more than five pounds.

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

Governor may make regulations.

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

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## PART VII.

### *Miscellaneous.*

No prosecution without authority of Minister.

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

Occupier not to contract with employees against liability.

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

Recovery of penalties.

47. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. And if the amount of any such penalty, together with the costs (if any) ordered to be paid upon any conviction be not paid within the time mentioned in the order, payment thereof may be enforced by distress and sale of the offender's goods and chattels, and in default of sufficient distress such offender shall be liable to imprisonment for such term as may be provided by this Act or the regulations for the offence of which he was convicted, or if no special term be provided, for any term not exceeding three calendar months, unless such penalty and costs be sooner paid.

Service of order, notice, or summons.

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

Penalty for not keeping factory or shop in conformity with this Act.

49. If a factory or shop is not kept in conformity with this Act, or of the regulations thereunder, or if in any factory or shop there is a contravention or breach of any of the provisions of this Act, or of the regulations thereunder, or if the occupier of a factory or shop fails to comply with an order or request made by the Minister or an inspector in pursuance of the Act or regulations, the occupier shall on conviction, if no other penalty is provided, be liable to a penalty not exceeding ten pounds. The magistrate or justices, in addition to or instead of inflicting a penalty, may order certain means to be adopted by the occupier within some time to be named in the order for the purpose of bringing his factory or shop into conformity with this Act, and

and may upon application enlarge the time so named; and if after the expiration of the time originally named or enlarged upon subsequent application the order is not complied with, the occupier shall be liable to a penalty not exceeding one pound for every day that such non-compliance continues.

Penalty for employing a person contrary to Act.

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

Parents liable to penalty in certain cases.

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

Proof of age of employees.

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

Penalty for forging certificate and false declaration.

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

Exemption of occupier from fine on conviction of the actual offender.

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

Governor to have power to make regulations.

55. In addition to the powers already conferred the Governor may, by notice in the *Gazette*, from time to time, make, alter, and repeal regulations for prescribing forms of notices to be given and returns and records to be made under this Act, and the particulars to be set forth therein; and generally for carrying into effect the provisions of this Act; and may impose any penalty not exceeding twenty pounds for the breach of any regulation.

## SCHEDULES.

### FIRST SCHEDULE.

*Factories in which the employment of persons is restricted.*

1. In a part of a factory in which there is carried on—
(*a*) the process of silvering of mirrors by the mercurial process; or
(*b*) the process of making white-lead—
a person under eighteen years shall not be employed.

2. In the part of a factory in which the process of melting or annealing glass is carried on, a male person under sixteen years of age and a female under eighteen years of age shall not be employed.

3. In a factory in which there is carried on—
(*a*) the making or finishing of bricks or tiles, not being ornamental tiles; or
(*b*) the making or finishing of salt—
a female under eighteen years of age shall not be employed.

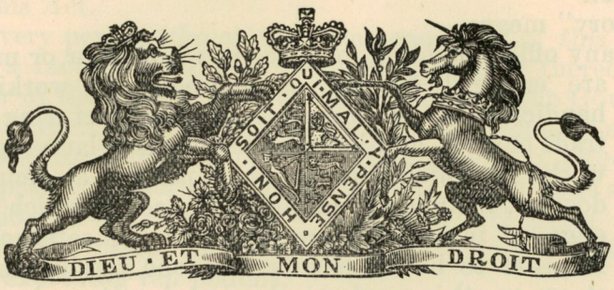
4. In a part of a factory in which there is carried on—
(*a*) any dry grinding in the metal trade;
(*b*) the dipping of lucifer matches—
a person under sixteen years of age shall not be employed.

5. No person under sixteen years of age shall be employed at or in connection with any manufacturing process or machine where continuous casting from molten lead or any combination thereof is carried on in a printing establishment.

### SECOND SCHEDULE.

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

By Authority: William Applegate Gullick, Government Printer, Sydney, 1896.
[1s.]



*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.

*Legislative Assembly Chamber,*
*Sydney,* 13 *November,* 1896, A.M.

F. W. WEBB,
*Clerk of the Legislative Assembly.*

# New South Wales.

ANNO SEXAGESIMO

# VICTORIÆ REGINÆ.

* * *

## No. XXXVII.

An Act to make provision for the supervision and regulation of Factories, Bakehouses, Laundries, Dye-works, and Shops; for the limitation in certain cases of the hours of working therein; to extend the liability of employers for injuries suffered by employees in certain cases; and for other purposes. [Assented to, 16th November, 1896.]

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

1. This Act shall come into force on the first day of January, one thousand eight hundred and ninety-seven (hereinafter referred to as the commencement of the Act), and may be cited as the "Factories and Shops Act of 1896." It is divided into seven Parts, embracing the following subjects, that is to say:— Short title.

PART I.—*Appointments—Registration and inspection.*
PART II.—*Records.*
PART III.—*Sanitary arrangements, &c.*
PART IV.—*Fencing of machinery—Protection from fire.*
PART V.—*Ages of persons employed and certificates.*
PART VI.—*Shops.*
PART VII.—*Miscellaneous.*

2.

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

WILLIAM McCOURT,
*Chairman of Committees of the Legislative Assembly.*

Interpretation.

2. In this Act, unless the context requires another meaning,—

"Child" means any person under the age of fourteen years.

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

"Factory" means—

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

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

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

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

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

"Governor" means the Governor, with the advice of the Executive Council.

"Inspector" means an inspector of factories and shops, appointed under this Act.

"Minister" means the Minister for the time being administering this Act.

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

"Prescribed" means prescribed by this Act or regulations under this Act.

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

"Shopkeeper" means the occupier of a shop.

Act to apply only to declared districts.

3. (I) This Act shall apply only to such localities as are declared by the Governor, by proclamation in the *Gazette*, to be a district or districts for the purposes of this Act.

Factories may be exempted.

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

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

PART

## PART I.

*Appointment of inspectors; registration and inspection of factories, and inspection of shops.*

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

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

6. (I) Every person intending to go into occupation of any unregistered factory shall, not less than seven days before going into occupation, and Registration of new factories.

(II) Every person in occupation of any tenement which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall, not less than seven days before it is so used as a factory,

forward to the inspector of the district or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice shall register the building and issue a certificate of registration to the person giving such notice.

Any occupier or intending occupier who fails to comply with the provisions of this section shall be liable to a penalty not exceeding ten pounds.

7. Every inspector shall have power— Powers of inspectors.

(I) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;

(II) to take with him in either case an officer of health or inspector of nuisances; or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;

(III) to require the production of the certificate of registration of any factory, or any book, notice, record, list, or document which is by this Act, or the regulations thereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;

(IV) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;

(V) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined;

(VI)

(vi) to exercise all other powers that may be necessary for carrying out the provisions of this Act, or of such provisions of any Act relating to public health as the Governor may from time to time determine.

Occupiers to allow entry and inspection.

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

Obstructing an inspector.

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

Inspector to produce certificate of appointment.

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

Penalty for forging certificate, &c.

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

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## PART II.

### *Records.*

Records to be kept.

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

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

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

(*a*) the name and address of the inspector for the district;

(*b*) the usual working hours of the factory.

Scale of wages and piecework to be furnished to the Minister on demand.

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

Record of outside work.

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

(*a*) the name of every person employed by him in the business of a factory outside such factory;

(*b*) the places where those persons are employed;

(*c*) the rate of payment in each instance.

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

(iii)

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

Occupier for purposes of this section.

15. Every person who, whether as principal, contractor, sub-contractor, or otherwise, directly or indirectly issues or gives out, or authorises or permits to be issued or given out, any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale, shall be deemed to be the occupier of a factory for the purposes of the last preceding section; and the person to whom such material is issued or given out shall, for the purposes of the said section, be deemed to be employed by the occupier in the business of the factory outside such factory.

Inspector not to divulge contents of records.

16. Any inspector who divulges the contents of any record or makes use of his knowledge of the contents thereof, except to the Minister or for the purposes of this Act or for enforcing the provisions thereof, or for statistical purposes in connection with a Department of the Public Service, shall be liable to a penalty not exceeding fifty pounds, or to imprisonment with hard labour for any term not exceeding six months.

Annual report.

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

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## PART III.

### *Sanitary arrangements, &c.*

Factories and shops to be kept clean and well ventilated.

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

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

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

Painting, varnishing, and washing of the interior of factories.

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

If

Papered walls.

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

Evidence of lime-washing, painting, &c.

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

Power to Minister to exempt certain factories.

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

Exemptions.

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

Bakehouses not to be used as sleeping places.

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

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

Privies, &c., not to communicate with bakehouse.

(II) no earth, or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse;

(III) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet;

(IV) no drain-pipe for carrying off fæcal or sewage matter shall have an opening within the bakehouse.

Penalty for above.

Any person who lets or occupies, or continues to let or knowingly suffers to be occupied, any place in which there is a breach of the provisions of this section shall be liable to a penalty not exceeding for the first offence twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds.

Meals not to be taken in factories in certain cases.

22. The Minister may, by notice in writing, forbid the occupier of a factory to permit any employees therein to take their meals in any room while work is being carried on therein, and may direct an occupier to erect or provide a suitable room or place in the factory or in connection therewith for the purpose of a dining or eating room for employees in such factory.

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

Ventilation, &c., in certain cases.

23. If it appear to the inspector that—

(*a*) in a factory where grinding, glazing, or polishing on a wheel, or any other process is carried on whereby dust is generated which is inhaled by the employees to an injurious extent, such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means of ventilation; or

(*b*)

(*b*) in a factory in which atmospheric humidity is artificially produced by steaming or other mechanical appliances whereby the health of the employees is or may be injuriously affected, such humidity could be to a great extent lessened by the adoption of a sufficient means of prevention; Humidity by steaming, &c.

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

24. (I) Every occupier of a factory or shop shall cause to be provided suitable sitting accommodation for all females employed in his shop in the proportion of one seat to every three females employed, and such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided. Sitting accommodation for females.

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

25. If any occupier within the meaning of section fifteen causes or allows wearing apparel to be made, cleaned, or repaired in any building, any inmate of which is suffering from leprosy, small-pox, asiatic cholera, typhoid fever, scarlet fever, diphtheria, membranous croup, or such other disease as may be declared to be an infectious disease under the provisions of any Public Health Act now or hereafter in force in New South Wales, he shall be liable to a penalty not exceeding fifty pounds, unless he proves that he was not aware of the existence of the illness in the building, and could not reasonably have been expected to become aware of it. Avoidance of infection.

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## PART IV.

### *The fencing of machinery and protection from fire.*

26. The traversing carriage of any self-acting machine erected after the commencement of this Act shall not be allowed to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is likely to pass, whether in the course of his employment or otherwise. Traversing carriage of self-acting machine.

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

(*a*) that the person so placed in charge was incompetent;

(*b*) that the defendant was guilty of negligence in employing him;

(*c*) that the plaintiff was injured through that person's incompetence,

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

28. The occupier of a factory shall securely fence all dangerous parts of the machinery therein, and with respect to such fencing the following provisions shall have effect:— Dangerous machinery to be fenced.

(I) every hoist or teagle and every fly-wheel directly connected with the steam or water or other mechanical power whether in

in the engine-house or not, and every part of a steam-engine and water wheel shall be securely fenced; and

(II) every wheel-race not otherwise secured shall be securely fenced close to the edge of the wheel-race; and

(III) every part of the mill gearing shall either be securely fenced or be in such position or of such construction as to be equally safe to every person employed in the factory or workroom as it would be if it were securely fenced; and

(IV) all fencing shall be constantly maintained in an efficient state while the parts required to be fenced are in motion or use for the purpose of any manufacturing process.

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

Safeguards from machinery to be provided.

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

(I) the inspector shall serve on the occupier of the factory a written notice to fence the machinery which he considers dangerous as aforesaid;

(II) the occupier within seven days from the receipt of such notice may serve on the inspector a written requisition to refer the matter to arbitration, and, thereupon, the matter shall be referred to arbitration, to be conducted under the regulations;

(III) if the arbitrators or their umpire decide that it is unnecessary or impracticable to fence the machinery alleged in the notice to be dangerous, the notice shall be cancelled and the occupier shall not be required to fence in pursuance thereof, and the costs of the reference shall be paid as the expenses of the inspector under this Act;

(IV) if the occupier does not within the said seven days serve on the inspector a requisition to refer the matter to arbitration, or does not appoint an arbitrator within the time required by the regulations, or if the arbitrators or the umpire decide that it is necessary and practicable to fence the machinery alleged in the notice to be dangerous, the occupier shall securely fence such machinery in accordance with the notice, or with the award of the arbitrators or umpire, if it modifies the notice, and the costs of the reference shall be borne by either or both parties to the arbitration as the arbitrators or the umpire may decide, and any portion of the costs to be borne by the occupier shall be a debt due by him to the inspector, and shall be recoverable in any court of competent jurisdiction;

(V) if the occupier of a factory fails to comply within a reasonable time with the notice or award, or fails to keep the said machinery securely fenced in accordance therewith, or fails to constantly maintain such fencing in an efficient state while the machinery required to be fenced is in motion, the factory shall be deemed not to be kept in conformity with this Act.

Dangerous machinery.

30. The Minister may on complaint by an inspector, and on being satisfied that any machine used in a factory is in such a condition that it cannot be used without danger to life or limb, by order prohibit such machine from being used, or (if it is capable of repair or alteration) from being

being used until it is duly repaired or altered to the Minister's satisfaction on the report of the inspector. Any employer who disobeys such order shall for each offence be liable to a penalty not exceeding ten pounds for every day on which the machine is used in contravention of the order.

Hoists and lifts to be protected.

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

Unsafe or dangerous elevator or lift.

(II) If an elevator or lift in a factory or shop used for the conveyance of employees or other persons is considered by an inspector to be unsafe or dangerous to use, he may prohibit the occupier or shopkeeper from using such elevator or lift until it is made safe to the inspector's satisfaction. Should any occupier or shopkeeper use, or permit to be used, such elevator or lift at any time whilst its use is so prohibited, he shall be liable to a penalty of twenty shillings for each time such elevator or lift is so used.

Restriction on employment of females and males under certain ages.

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

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

(*a*) to clean such part of the machinery in a factory as is mill gearing while the same is in motion for the purpose of propelling any part of the manufacturing machinery; or

(*b*) to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water, or other mechanical power.

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

Accidents in factories.

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

(*a*) causes loss of life to an employee in the factory; or

(*b*) causes bodily injury to any employee in the factory, such as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident,

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

Doors to open outwardly.

34. (I) In every factory erected after the passing of this Act, and in which ten or more persons are employed, and in any existing factory where the Minister by notice in writing may so require, the main inside and outside doors shall open outwards, and all the doors of every room in a factory, in which persons are actually at work, or of passages leading to such rooms, or serving as entrances and exits shall neither be locked, bolted, nor barred during working hours.

Extinguishing fire.

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

Means of escape from fire.

(III) Every factory three or more storeys in height, in which persons are employed above the second storey, shall be furnished with

with a certificate from the inspector that the factory is provided with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case.

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

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## PART V.

### *Ages of persons employed in factories and certificates.*

No child to be employed.

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

Interval for meals in certain cases.

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

Hours of employment may be extended under certain conditions.

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

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

No such person, however, may be employed overtime on more than three consecutive days, and such overtime shall be paid for at the rate of time and a half.

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

Restriction in certain class of employment.

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

Certificate of fitness.

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

(II) A certificate of fitness for the purposes of this Act may be granted by any legally qualified medical practitioner, and shall be to the effect that he is satisfied by the production of a certificate of birth or other sufficient evidence that the person named in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

(III) The certificate of birth which shall be produced to such legally qualified medical practitioner may be either—

(*a*) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the Registration of Births of the birth of the person (and such certificate of birth shall be given by the registrar without fee) ; or

(*b*)

(*b*) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

(IV) The occupier shall, when required, produce to an inspector at the factory at which a person under sixteen years of age is employed the certificate of fitness of such person for employment which he is required to obtain under this section.

Limitation of employment for young persons.

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

(*a*) in any factory;

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

between the hours of seven o'clock in the evening and six o'clock in the morning, unless in the case of overtime, and subject to the restrictions contained in section thirty-seven:

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

Where person under sixteen incapacitated for working daily.

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

Female not to be employed for four weeks after confinement.

42. No female shall be employed during the four weeks immediately after her confinement.

## PART VI.

### *Shops.*

Limitation of hours of work in certain cases.

43. (I) Except as hereinafter provided, a male under sixteen years of age or a female under eighteen years of age shall not work in or in connection with any shop for a longer time than fifty-two hours in any one week, or for a longer time than nine and a half hours in any one day, except on one day in each week, when eleven and a half hours work may be done, but such shall not apply to the occupier of a shop or any member of the occupier's family employed in such shop.

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

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

(IV)

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

(v) The occupier of a shop in which or in connection with which any contravention of this section occurs shall on conviction be liable to a penalty for the first offence of not more than two pounds, and for every subsequent offence of not less than two pounds or more than five pounds.

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

Governor may make regulations.

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

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## PART VII.

### *Miscellaneous.*

No prosecution without authority of Minister.

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

Occupier not to contract with employees against liability.

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

Recovery of penalties.

47. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. And if the amount of any such penalty, together with the costs (if any) ordered to be paid upon any conviction be not paid within the time mentioned in the order, payment thereof may be enforced by distress and sale of the offender's goods and chattels, and in default of sufficient distress such offender shall be liable to imprisonment for such term as may be provided by this Act or the regulations for the offence of which he was convicted, or if no special term be provided, for any term not exceeding three calendar months, unless such penalty and costs be sooner paid.

Service of order, notice, or summons.

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

Penalty for not keeping factory or shop in conformity with this Act.

49. If a factory or shop is not kept in conformity with this Act, or of the regulations thereunder, or if in any factory or shop there is a contravention or breach of any of the provisions of this Act, or of the regulations thereunder, or if the occupier of a factory or shop fails to comply with an order or request made by the Minister or an inspector in pursuance of the Act or regulations, the occupier shall on conviction, if no other penalty is provided, be liable to a penalty not exceeding ten pounds. The magistrate or justices, in addition to or instead of inflicting a penalty, may order certain means to be adopted by the occupier within some time to be named in the order for the purpose of bringing his factory or shop into conformity with this Act, and

and may upon application enlarge the time so named; and if after the expiration of the time originally named or enlarged upon subsequent application the order is not complied with, the occupier shall be liable to a penalty not exceeding one pound for every day that such non-compliance continues.

Penalty for employing a person contrary to Act.

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

Parents liable to penalty in certain cases.

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

Proof of age of employees.

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

Penalty for forging certificate and false declaration.

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

Exemption of occupier from fine on conviction of the actual offender.

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

Governor to have power to make regulations.

55. In addition to the powers already conferred the Governor may, by notice in the *Gazette*, from time to time, make, alter, and repeal regulations for prescribing forms of notices to be given and returns and records to be made under this Act, and the particulars to be set forth therein; and generally for carrying into effect the provisions of this Act; and may impose any penalty not exceeding twenty pounds for the breach of any regulation.

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SCHEDULES.

## SCHEDULES.

### FIRST SCHEDULE.

*Factories in which the employment of persons is restricted.*

1. In a part of a factory in which there is carried on—
(*a*) the process of silvering of mirrors by the mercurial process; or
(*b*) the process of making white-lead—
a person under eighteen years shall not be employed.

2. In the part of a factory in which the process of melting or annealing glass is carried on, a male person under sixteen years of age and a female under eighteen years of age shall not be employed.

3. In a factory in which there is carried on—
(*a*) the making or finishing of bricks or tiles, not being ornamental tiles; or
(*b*) the making or finishing of salt—
a female under eighteen years of age shall not be employed.

4. In a part of a factory in which there is carried on—
(*a*) any dry grinding in the metal trade;
(*b*) the dipping of lucifer matches—
a person under sixteen years of age shall not be employed.

5. No person under sixteen years of age shall be employed at or in connection with any manufacturing process or machine where continuous casting from molten lead or any combination thereof is carried on in a printing establishment.

### SECOND SCHEDULE.

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

*By virtue of a Deputation from His Excellency the Governor, in the name and on the behalf of Her Majesty I assent to this Act.*

FREDK. M. DARLEY,
*Lieutenant-Governor.*

*Government House,*
*Sydney,* 16*th November,* 1896.

# FACTORIES AND SHOPS BILL.

*SCHEDULE showing the Legislative Assembly's Disagreements and Amendments upon the Legislative Council's Amendments, referred to in Message of* 10*th November*, 1896.

F. W. WEBB,
Clerk of the Legislative Assembly.

Page 1, title, line 4. *Reinsert* " and for the stamping of furniture "
Page 2, clause 2, line 16. *Omit* " **inspector** " *insert* " Minister "
Page 3, clauses 7 and 8. *Reinsert* clauses 7 and 8.
Page 5, clause ~~16.~~ **14**, lines 35 to 39. *Reinsert*—

(IV) The Minister shall publish in the *Gazette* for general information any such particulars contained in any records or scale of wages referred to in this or the preceding section, as the Governor may from time to time think it necessary or desirable so to publish, including, if the Governor thinks fit, the name and address of any occupier.

Page 9, clause ~~31.~~ **30**, line 29. *Omit* " **forty shillings** " *insert* " fifty pounds "
Page 10, clause ~~35.~~ **34**, line 30. *Omit* " **inspector** " *insert* " Minister "
Page 10, clause ~~38.~~ **37**, line 41. *Reinsert* " eighteen " *omit* " **sixteen** "
Page 10, clause ~~38.~~ **37**, lines 52 and 53. *Reinsert* " the minimum rate of such " overtime to be sixpence per hour "
Page 11, clause 42. *Reinsert* clause 42.
Page 12, clause ~~45.~~ **42**, lines 8 and 9. *Reinsert* " eighteen " *omit* " **sixteen** "
Page 12, clause ~~45.~~ **42**, line 9. *Omit* " **under eighteen years of age** "
Page 12, clause ~~45.~~ **42**, lines 15 and 16. *Reinsert* " Provided that on one working " day in each week no shops shall be open after one o'clock p.m. "
Page 12, clause ~~45.~~ **42**, lines 21, 22, and 23. *Reinsert* " forty, and such work " beyond the ordinary working hours shall be paid for at the rate of time " and a half " *omit* " **fifty-two** "
Page 12, clause ~~45.~~ **42**, lines 24 to 28. *Reinsert*—

The shopkeeper shall keep a record of all such hours of work beyond the ordinary working hours, and shall note against the name of each person so employed the extra hours worked by him, and shall furnish a copy of such record to the inspector when called upon to do so.

Page 12, clause ~~45.~~ **42**, line 32. *Reinsert* " eighteen " *omit* " **sixteen** "
Page 12, clause ~~45.~~ **42**, line 33. *Omit* " **under eighteen years of age** ".
Page 12, clause ~~46.~~ **43**, lines 49 and 50. *Reinsert* " limiting the total number of hours in the week during " *omit* " **under** "
Page 12, clause ~~46.~~ **43**, line 50. *Reinsert* " eighteen " *omit* " **sixteen** "
Page 12, clause ~~46.~~ **43**, line 51. *Omit* " **under eighteen years of age** "
Pages 12 and 13, clauses 47, 48, 49. *Reinsert* clauses 47, 48, 49.
Page 14, new clauses **44** and **45**. *Omit* new clauses **44** and **45**.
Page 14, clause ~~51.~~ **47**, lines 38 to 43. *Reinsert* " or shall make any deductions " whatsoever from the wages of any employee under the definition of " accident assurance or with the object of securing indemnification through " employees of any liability under this Act ; and any person so offending " shall be liable to a penalty not exceeding two pounds for every such " offence "



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

## FACTORIES AND SHOPS BILL.

*SCHEDULE of Amendments referred to in Message of 3rd November*, 1896.

Page 1, Title. *Omit* "and for the stamping of Furniture"
Page 2, clause 2, line 8. *Omit* "includes" *insert* "**means**"
Page 2, clause 2, line 13. *After* "works" *insert* "**in which four or more persons are engaged, but "does not include any building or place in which the persons engaged in working are "shown to the satisfaction of the inspector to be all members of one family and in which "steam or other mechanical power is not used**"
Page 2, clause 2, line 24. *After* "produce" *insert* "**nor any wool-shed used for shearing sheep or "building used for dumping wool or any ship**"
Page 2, clause 2, lines 29 and 30. *Omit* "for the purposes of registration and the computation of "registration fees"
Page 2, clause 3, line 47. *Omit* "except as regards shops"
Page 2, clause 3, line 51. *After* "factories" *insert* "**or shop or class of shops**"
Page 2, clause 3, line 53. *After* "factories" *insert* "**or shop or class of shops**"
Page 3, clause 4, line 6. *After* "Act" *omit* remainder of clause
Page 3, clause 5, line 13. *Omit* "and the payment of the prescribed fee"
Page 3, clause 5, lines 15 to 18. *Omit* "authorising the use of the factory for one year or portion of a "year; but the issue of such certificate shall not be held to relieve the occupier from compliance "with any of the other provisions of this Act"
Page 3, clause 5, line 19. *Omit* "twenty" *insert* "**ten**"
Page 3, clause 6, lines 30 and 31. *Omit* "and on being satisfied that the building is suitable for a factory"
Page 3, clause 6, line 31. *Omit* "on payment of the prescribed fee"
Page 3, clause 6, lines 32 to 35. *Omit* "occupier authorising its use as a factory for one year or portion of "a year; but the issue of such certificate shall not be held to relieve the occupier from compliance "with any of the other provisions of this Act" *insert* "**person giving such notice**"
Page 3, clauses 7 and 8. *Omit* clauses 7 and 8
Page 4, clause ~~9.~~ **7**, line 7. *Omit* "a constable"
Page 4, clause ~~9.~~ **7**, lines 8 to 10. *Omit* "and any such constable, officer of health, or inspector of nuisances "may at all reasonable times enter and inspect any factory or shop" *insert* "**or, in any case in "which he has reasonable cause to apprehend any serious obstruction in the execution "of his duty, a constable**"
Page 4, clause ~~9.~~ **7**, line 14. *Omit* "or of the renewal thereof"
Page 4, clause ~~10.~~ **8**, line 35. *Omit* "at all times"
Page 4, clause ~~10.~~ **8**, line 38. *After* "shop" *omit* remainder of clause
Page 4, clause ~~11.~~ **9**, lines 42 to 44. *Omit* "or to furnish the means required by an inspector as provided "in the last preceding section"
Page 4, clause ~~11.~~ **9**. At end of clause *add* "**Provided that no person shall be required to answer "any question or give any evidence incriminating himself**"
Page 5, clause ~~14.~~ **12**, line 12. *Before* "working" *insert* "**usual**"
Page 5, clause ~~15.~~ **13**, line 16. *After* "factory" *omit* remainder of clause
Page 5, clause ~~16.~~ **14**, line 24. *Omit* "directly or indirectly"
Page 5, clause ~~16.~~ **14**, line 34. *Omit* "twenty" *insert* "**ten**"
Page 5, clause ~~16.~~ **14**. *Omit* subsection (iv)
Page 5, clause ~~17.~~ **15**, line 46. *Omit* "this" *insert* "the last preceding"
Page 5, clause ~~17.~~ **15**, line 48. *Omit* "this" *insert* "the said"
Page 6. *After* clause ~~21~~ **19** *insert* new clause **20**
Page 8, clause ~~28.~~ **27**, line 11. *Omit* "by the act or default of any person placed in" *insert* "**solely by "a boiler explosion arising from the negligent employment of an incompetent person to "take**"
Page 8, clause ~~28.~~ **27**, line 13. *Omit* "steam-engine or"
Page 8, clause ~~28.~~ **27**, line 13. *After* "used" *insert* "**for driving an engine**"
Page 8, clause ~~28.~~ **27**, lines 22 and 23. *Omit* "a steam-engine or" *insert* "**such**"
Page 8, clause ~~30.~~ **29**, line 42. *Omit* "any machinery" *insert* "**any part of the machinery of any kind "moved by steam, water, or other mechanical power, to which the provisions of this Act "with respect to the fencing of machinery do not apply**"
Page 9, clause ~~31.~~ **30**, line 29. *Omit* "one hundred pounds" *insert* "**forty shillings**"
Page 10, clause ~~35.~~ **34**. At end of clause *add* new subsection (iv)
Page 10, clause ~~38.~~ **37**, line 41. *Omit* "eighteen" *insert* "**sixteen**"
Page 10, clause ~~38.~~ **37**, lines 52 and 53. *Omit* "the minimum rate of such overtime to be sixpence per "hour"
Page 11, clause ~~41.~~ **40**, line 36. *Omit* "six" *insert* "**seven**"
Page 11, clause ~~41.~~ **40**, line 36. *Omit* "seven" *insert* "**six**"
Page 11, clause 42. *Omit* clause 42
Page 12, clause 44. *Omit* clause 44
Page 12, clause ~~45.~~ **42**, line 8. *Omit* "eighteen" *insert* "**sixteen**"
Page 12, clause ~~45.~~ **42**, line 9. *After* "female" *insert* "**under eighteen years of age**"
Page 12, clause ~~45.~~ **42**, lines 15 and 16. *Omit* "Provided that on one working day in each week no shops "shall be open after one o'clock p.m."

Page 12, clause ~~45.~~ **42**, lines 21 to 23. *Omit* "forty, and such work beyond the ordinary working hours "shall be paid for at the rate of time and a half" *insert* "**fifty-two**"

Page 12, clause ~~45.~~ **42**, lines 24 to 28. *Omit* "The shopkeeper shall keep a record of all such hours of "work beyond the ordinary working hours, and shall note against the name of each person so "employed the extra hours worked by him, and shall furnish a copy of such record to the "inspector when called upon to do so"

Page 12, clause ~~45.~~ **42**, line 32. *Omit* "eighteen" *insert* "**sixteen**"

Page 12, clause ~~45.~~ **42**, line 33. *After* "female" *insert* "**under eighteen years of age**"

Page 12, clause ~~45.~~ **42**, lines 36 and 37. *Omit* "or for a longer time than will when added to the time "worked by him or her in any factory exceed eight hours in the whole" *insert* "**or in any case "for a longer period than will, together with the time during which he or she has been "so previously employed, complete the number of eight hours**"

Page 12, clause ~~45.~~ **42**, line 44. *Omit* "five" *insert* "**two**"

Page 12, clause ~~45.~~ **42**, line 45. *Omit* "ten" *insert* "**five**"

Page 12, clause ~~46.~~ **43**, line 49. *Omit* "limiting the total number of hours in the week during" *insert* "**under**".

Page 12, clause ~~46.~~ **43**, line 50. *Omit* "eighteen" *insert* "**sixteen**"

Page 12, clause ~~46.~~ **43**, line 50. *After* "females" *insert* "**under eighteen years of age**"

Pages 12 and 13, clauses 47, 48, and 49. *Omit* clauses 47, 48, and 49

Page 14. *Before* clause ~~50.~~ **46**, *insert* new clauses **44** and **45**

Page 14, clause ~~51.~~ **47**, line 38. *After* "Act" *omit* remainder of clause

Page 15, clause ~~55.~~ **51**, line 26. *Omit* "three" *insert* "**two**"

Page 15, clause ~~55.~~ **51**, line 27. *Omit* "five" *insert* "**three**"

Page 15, clause ~~55.~~ **51**, lines 28 and 29. *Omit* "and absence from work"

Page 15, clause ~~56.~~ **52**, line 32. *After* "guardian" *insert* "**having control**"

Page 15, clause ~~56.~~ **52**, line 32. *Omit* "child or" *insert* "**male person under sixteen years of age or "female**"

Page 15, clause ~~56.~~ **52**, line 34. *Omit* "child or"

Page 15, clause ~~56.~~ **52**, line 34. *After* "factory" *insert* "**or shop**"

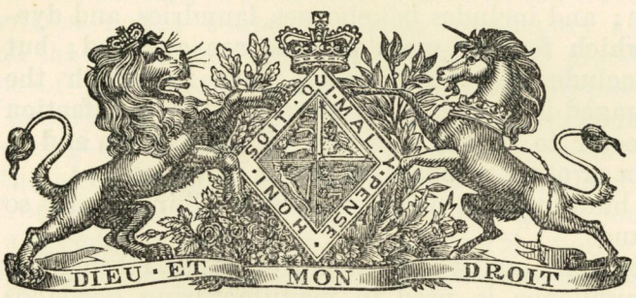
Page 15, clause ~~56.~~ **52**, line 38. *Omit* "or to imprisonment for any period not exceeding seven days"

Page 15, clause ~~58.~~ **54**, line 56. *After* "to" *insert* "**a penalty not exceeding twenty pounds for each "offence or to**"

Page 15, clause ~~58.~~ **54**, line 57. *Omit* "six" *insert* "**three**"

Page 16, clause ~~60.~~ **56**, lines 15 to 17. *Omit* "for fixing a scale of fees to be taken and received for the "registration of factories under this Act; for fixing a scale of fees to be taken by certified medical "practitioners for examinations and reports"

Page 16, clause ~~60.~~ **56**, line 21. *Omit* "fifty" *insert* "**twenty**"



*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.*

*Legislative Assembly Chamber,*
*Sydney,* 3 *September,* 1896.

F. W. WEBB,
*Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,*
*Sydney,* 3*rd November,* 1896.

JOHN J. CALVERT,
*Clerk of the Parliaments.*

# New South Wales.

ANNO SEXAGESIMO

# VICTORIÆ REGINÆ.

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## No. .

An Act to make provision for the supervision and regulation of Factories, Bakehouses, Laundries, Dye-works, and Shops; for the limitation in certain cases of the hours of working therein; ~~and for the stamping of Furniture;~~ to extend the liability of employers for injuries suffered by employees in certain cases; and for other purposes.

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

Short title.

1. This Act shall come into force on the first day of January, one thousand eight hundred and ninety-seven (hereinafter referred to as the commencement of the Act), and may be cited as the "Factories and Shops Act of 1896." It is divided into seven Parts, embracing the following subjects, that is to say:—

PART I.—*Appointments—Registration and inspection.*
PART II.—*Records.*
PART III.—*Sanitary arrangements, &c.*
PART IV.—*Fencing of machinery—Protection from fire.*
PART V.—*Ages of persons employed and certificates.*
PART VI.—*Shops*—~~Stamping furniture.~~
PART VII.—*Miscellaneous.*

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

2. In this Act, unless the context requires another meaning,— Interpretation.

"Child" means any person under the age of fourteen years.

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

"Factory" ~~includes~~ **means**—

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

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

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

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

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

"Governor" means the Governor, with the advice of the Executive Council.

"Inspector" means an inspector of factories and shops, appointed under this Act.

"Minister" means the Minister for the time being administering this Act.

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

"Prescribed" means prescribed by this Act or regulations under this Act.

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

"Shopkeeper" means the occupier of a shop.

3. (I) This Act, ~~except as regards shops,~~ shall apply only to such localities as are declared by the Governor, by proclamation in the *Gazette*, to be a district or districts for the purposes of this Act. Act to apply only declared districts.

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

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

PART

## PART I.

*Appointment of inspectors; registration and inspection of factories, and inspection of shops.*

4. The Governor may appoint so many inspectors of factories and shops as may appear necessary for carrying into effect the provisions of this Act, ~~and may assign one or more districts to one or more inspectors.~~ Appointment of inspectors.

5. Every person who at the commencement of this Act is the occupier of a factory shall within twenty-eight days thereof serve on the inspector of the district, or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed, and the inspector, or such other person as aforesaid, shall on the receipt of such notice ~~and the payment of the prescribed fee~~ register the factory, and issue a certificate of registration to such occupier ~~authorising the use of the factory for one year or portion of~~ a year; but the issue of such certificate shall not be held to relieve the occupier from compliance with any of the other provisions of this ~~Act.~~ Should any occupier neglect or omit to serve the notice as herein provided he shall be liable to a penalty not exceeding ~~twenty~~ **ten** pounds. Registration of existing factories.

6. (I) Every person intending to go into occupation of any unregistered factory shall, not less than seven days before going into occupation, and Registration of new factories.

(II) Every person in occupation of any tenement which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall, not less than seven days before it is so used as a factory,

forward to the inspector of the district or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice, ~~and on being satisfied that the building is suitable for a factory,~~ shall, ~~on payment of the prescribed fee,~~ register the building, and issue a certificate of registration to the ~~occupier~~ authorising its use as a factory for one year or portion of a year; but the issue of such certificate shall not be held to relieve the occupier ~~from compliance with any of the other provisions of this Act.~~ **person giving such notice.**

Any occupier or intending occupier who fails to comply with the provisions of this section shall be liable to a penalty not exceeding ten pounds.

7. On or before the thirty-first day of July in each year, the occupier of every registered factory shall apply for a renewal of the certificate of registration for the following year by written application served upon the inspector of the district or such other person as the Governor may appoint, and accompanied by a return specifying any alterations which have been made, since the issue of such certificate of registration or the last renewal thereof, in the structure of the factory, the moving power, and the work done therein, and containing such further particulars as may be prescribed, and in default shall be liable to a penalty not exceeding twenty pounds; and the inspector or such other person as aforesaid shall, upon receipt of the said application and return, and the payment of the prescribed fee, enter the particulars thereof in a register to be kept by him, and send to the occupier a certificate of renewal in such form as may be prescribed; but the issue of such certificate of renewal shall not be held to relieve the occupier from compliance with any of the other provisions of this Act. Renewal of registration.

8. The occupier of a factory which is not registered as in this Act provided shall be liable to a penalty not exceeding ten pounds, in addition to any liability to which he may be liable under the preceding ~~sections.~~ Penalty for non-registration.

Powers of inspectors.

~~9.~~ **7.** Every inspector shall have power—

(I) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;

(II) to take with him in either case ~~a constable,~~ an officer of health, or inspector of nuisances; ~~and any such constable, officer of health, or inspector of nuisances may at all reasonable times enter and inspect any factory or shop;~~ **or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;**

(III) to require the production of the certificate of registration of any factory ~~or of the renewal thereof,~~ or any book, notice, record, list, or document which is by this Act, or the regulations thereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;

(IV) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;

(V) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined;

(VI) to exercise all other powers that may be necessary for carrying out the provisions of this Act, or of such provisions of any Act relating to public health as the Governor may from time to time determine.

Occupiers to allow entry and inspection

~~10.~~ **8.** The occupier of every factory or shop, his agents and servants, shall ~~at all times~~ furnish the means required by an inspector necessary for an entry, inspection, examination, and inquiry, or the exercise of his powers under this Act in relation to such factory or shop, ~~and shall give every assistance in his or their power to an inspector in the performance of his duties under this Act.~~

Obstructing an inspector.

~~11.~~ **9.** Every person who wilfully delays an inspector in the exercise of any power under this Act, or who fails to comply with a requisition of an inspector made under any such power as aforesaid, ~~or to furnish the means required by an inspector as provided in the last preceding section,~~ or to produce any certificate of registration, book, record, certificate, notice, list, or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents any person from appearing before or being examined by an inspector, or attempts so to conceal or prevent any person, shall be deemed to obstruct an inspector in the execution of his duties under this Act, and shall for each offence be liable to a penalty not exceeding twenty pounds: **Provided that no person shall be required to answer any question or give any evidence incriminating himself.**

Inspector to produce certificate of appointment.

~~12.~~ **10.** Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to a factory or shop shall, if required, produce such certificate to the occupier.

Penalty for forging certificate, &c.

~~13.~~ **11.** Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the inspector named in any such certificate, or falsely pretends to be an inspector under this Act shall be liable to be imprisoned for a term not exceeding six months with or without hard labour.

PART

## PART II.

### *Records.*

~~14.~~ **12.** The occupier of a factory or shop shall keep, or cause to be kept, a record of the names of all employees in the factory or shop, together with the ages of all employees under eighteen years of age, and such other particulars as may from time to time be prescribed. Records to be kept.

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

(*a*) the name and address of the inspector for the district;

(*b*) the usual working hours of the factory.

~~15.~~ **13.** The occupier of a factory shall, if so required by the Minister furnish to him a scale of the wages paid to the employees therein, and also the rates of payment made for piecework to the persons working in and in connection with such factory, ~~and the~~ wages and rates so stated shall be taken as evidence of the wages payable and the rates of payment in any legal proceedings by employees to recover money due for wages or piecework. Scale of wages and piecework to be ~~posted up in certain cases.~~ furnished to the Minister on demand.

~~16.~~ **14.** (I) The occupier of a factory shall, for the information of the inspectors, who alone shall be entitled to demand such information, keep a record in the prescribed form and with the prescribed particulars, showing— Record of outside work.

(*a*) the name of every person employed, ~~directly or indirectly,~~ by him in the business of a factory outside such factory;

(*b*) the places where those persons are employed;

(*c*) the rate of payment in each instance.

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

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

(IV) The Minister shall publish in the *Gazette* for general information any such particulars contained in any records or scale of wages referred to in this or the preceding section, as the Governor may from time to time think it necessary or desirable so to publish, including, if the Governor thinks fit, the name and address of any occupier.

~~17.~~ **15.** Every person who, whether as principal, contractor, sub-contractor, or otherwise, directly or indirectly issues or gives out, or authorises or permits to be issued or given out, any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale, shall be deemed to be the occupier of a factory for the purposes of ~~this~~ the last preceding section; and the person to whom such material is issued or given out shall, for the purposes of ~~this~~ the said section, be deemed to be employed by the occupier in the business of the factory outside such factory. Occupier for purposes of this section.

~~18.~~ **16.** Any inspector who divulges the contents of any record or makes use of his knowledge of the contents thereof, except to the Minister or for the purposes of this Act or for enforcing the provisions thereof, or for statistical purposes in connection with a Department of the Public Service, shall be liable to a penalty not exceeding fifty pounds, or to imprisonment with hard labour for any term not exceeding six months. Inspector not to divulge contents of records.

~~19.~~ **17.** Each inspector shall furnish annually to the Minister for submission to Parliament a report on the operation of the Act. Annual report.

PART

## PART III.

*Sanitary arrangements, &c.*

Factories and shops to be kept clean and well ventilated.

~~20.~~ **18.** (I) Every factory and shop shall be kept in a cleanly state and free from effluvia arising from any drain, earth, or water-closet, urinal, or other nuisance.

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

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

Painting, varnishing, and washing of the interior of factories.

~~21.~~ **19.** All the inside walls of the rooms of a factory, and all the ceilings and tops of such rooms (whether such walls, ceilings or tops be plastered or not), and all the passages and staircases of a factory shall either be varnished or painted with oil at least once in every period of seven years, or be lime-washed, or washed with some liquid approved by the inspector, at least once in every period of fourteen months (or, in the case of a bakehouse situate in a municipality, once in every period of six months), and shall, if they have been so painted or varnished, be washed with hot water and soap at least once in every period of fourteen months; but the inspector may, if it appear to him necessary, order the walls, ceilings, passages, and staircases of any factory or of any bakehouse situated as aforesaid, to be painted, varnished, lime-washed, or washed more frequently than is herein provided.

Papered walls.

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

Evidence of lime-washing, painting, &c.

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

Power to Minister to exempt certain factories.

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

Exemptions.

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

Bakehouses not to be used as sleeping places.

~~22.~~ **21.** Where a bakehouse having employed therein one or more persons is situated in any district under this Act—

(I) no place on the same level with the bakehouse and forming part of the same building shall be used as a sleeping place unless such sleeping place is effectually separated from communication with the bakehouse by a partition extending

from

from the floor to the ceiling, and there is an external glazed window in such sleeping place of at least nine superficial feet in area, of which at least four and a half superficial feet are made so as to open for ventilation;

(II) no earth, or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse; Privies, &c., not to communicate with bakehouse.

(III) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet;

(IV) no drain-pipe for carrying off fæcal or sewage matter shall have an opening within the bakehouse.

Any person who lets or occupies, or continues to let or knowingly suffers to be occupied, any place in which there is a breach of the provisions of this section shall be liable to a penalty not exceeding for the first offence twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds. Penalty for above.

~~23.~~ **22.** The Minister may, by notice in writing, forbid the occupier of a factory to permit any employees therein to take their meals in any room while work is being carried on therein, and may direct an occupier to erect or provide a suitable room or place in the factory or in connection therewith for the purpose of a dining or eating room for employees in such factory. Meals not to be taken in factories in certain cases.

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

~~24.~~ **23.** If it appear to the inspector that—

(*a*) in a factory where grinding, glazing, or polishing on a wheel, or any other process is carried on whereby dust is generated which is inhaled by the employees to an injurious extent, such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means of ventilation; or Ventilation, &c., in certain cases.

(*b*) in a factory in which atmospheric humidity is artificially produced by steaming or other mechanical appliances whereby the health of the employees is or may be injuriously affected, such humidity could be to a great extent lessened by the adoption of a sufficient means of prevention; Humidity by steaming, &c.

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

~~25.~~ **24.** (I) Every occupier of a factory or shop shall cause to be provided suitable sitting accommodation for all females employed in his shop in the proportion of one seat to every three females employed, and such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided. Sitting accommodation for females.

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

~~26.~~ **25.** If any occupier within the meaning of section ~~seventeen~~ **fifteen** causes or allows wearing apparel to be made, cleaned, or repaired in any building, any inmate of which is suffering from leprosy, small-pox, asiatic cholera, typhoid fever, scarlet fever, diphtheria, membranous croup, or such other disease as may be declared to be an infectious disease under the provisions of any Public Health Act now or hereafter in force in New South Wales, he shall be liable to a penalty not exceeding fifty pounds, unless he proves that he was not aware of the existence of the illness in the building, and could not reasonably have been expected to become aware of it. Avoidance of infection.

PART

## PART IV.

*The fencing of machinery and protection from fire.*

Traversing carriage of self-acting machine.

~~27.~~ **26.** The traversing carriage of any self-acting machine erected after the commencement of this Act shall not be allowed to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is likely to pass, whether in the course of his employment or otherwise.

Liability of employer for injury caused by act or default of person in charge of ~~steam-engine or~~ boiler.

~~28.~~ **27.** In any action brought by an employee in a factory or by his representatives to recover damages from his employer for personal injury caused ~~by the act or default of any person placed in~~ **solely by a boiler explosion arising from the negligent employment of an incompetent person to take** charge of a ~~steam-engine or~~ boiler used **for driving an engine** in connection with the factory, the fact of the injury shall be *primâ facie* evidence—

(*a*) that the person so placed in charge was incompetent;

(*b*) that the defendant was guilty of negligence in employing him;

(*c*) that the plaintiff was injured through that person's incompetence,

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

Dangerous machinery to be fenced.

~~29.~~ **28.** The occupier of a factory shall securely fence all dangerous parts of the machinery therein, and with respect to such fencing the following provisions shall have effect:—

(I) every hoist or teagle and every fly-wheel directly connected with the steam or water or other mechanical power whether in the engine-house or not, and every part of a steam-engine and water wheel shall be securely fenced; and

(II) every wheel-race not otherwise secured shall be securely fenced close to the edge of the wheel-race; and

(III) every part of the mill gearing shall either be securely fenced or be in such position or of such construction as to be equally safe to every person employed in the factory or workroom as it would be if it were securely fenced; and

(IV) all fencing shall be constantly maintained in an efficient state while the parts required to be fenced are in motion or use for the purpose of any manufacturing process.

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

Safeguards from machinery to be provided.

~~30.~~ **29.** If an inspector considers that in a factory ~~any machinery~~ **any part of the machinery of any kind, moved by steam, water, or other mechanical power, to which the provisions of this Act with respect to the fencing of machinery do not apply** is not securely fenced, and is so dangerous as to be likely to cause bodily injury to any person employed in the factory—

(I) the inspector shall serve on the occupier of the factory a written notice to fence the machinery which he considers dangerous as aforesaid;

(II) the occupier within seven days from the receipt of such notice may serve on the inspector a written requisition to refer the matter to arbitration, and, thereupon, the matter shall be referred to arbitration, to be conducted under the regulations;

(III) if the arbitrators or their umpire decide that it is unnecessary or impracticable to fence the machinery alleged in the notice to be dangerous, the notice shall be cancelled and the occupier shall not be required to fence in pursuance thereof, and the costs of the reference shall be paid as the expenses of the inspector under this Act;

(iv) if the occupier does not within the said seven days serve on the inspector a requisition to refer the matter to arbitration, or does not appoint an arbitrator within the time required by the regulations, or if the arbitrators or the umpire decide that it is necessary and practicable to fence the machinery alleged in the notice to be dangerous, the occupier shall securely fence such machinery in accordance with the notice, or with the award of the arbitrators or umpire, if it modifies the notice, and the costs of the reference shall be borne by either or both parties to the arbitration as the arbitrators or the umpire may decide, and any portion of the costs to be borne by the occupier shall be a debt due by him to the inspector, and shall be recoverable in any court of competent jurisdiction;

(v) if the occupier of a factory fails to comply within a reasonable time with the notice or award, or fails to keep the said machinery securely fenced in accordance therewith, or fails to constantly maintain such fencing in an efficient state while the machinery required to be fenced is in motion, the factory shall be deemed not to be kept in conformity with this Act.

Dangerous machinery.

~~31.~~ **30.** The Minister may on complaint by an inspector, and on being satisfied that any machine used in a factory is in such a condition that it cannot be used without danger to life or limb, by order prohibit such machine from being used, or (if it is capable of repair or alteration) from being used until it is duly repaired or altered to the Minister's satisfaction on the report of the inspector. Any employer who disobeys such order shall for each offence be liable to a penalty not exceeding ~~one hundred pounds~~ **forty shillings** for every day on which the machine is used in contravention of the order.

Hoists and lifts to be protected.

~~32.~~ **31.** (i) In every factory and shop the opening of every hoistway, elevator, or lift, or well-hole shall at each floor be provided with and protected by good and sufficient trap-doors or self-closing hatches and safety catches, or by such other safe guards as the inspector may approve, which shall be kept closed at all times when they are not in actual use.

Unsafe or dangerous elevator or lift.

(ii) If an elevator or lift in a factory or shop used for the conveyance of employees or other persons is considered by an inspector to be unsafe or dangerous to use, he may prohibit the occupier or shopkeeper from using such elevator or lift until it is made safe to the inspector's satisfaction. Should any occupier or shopkeeper use, or permit to be used, such elevator or lift at any time whilst its use is so prohibited, he shall be liable to a penalty of twenty shillings for each time such elevator or lift is so used.

Restriction on employment of females and males under certain ages.

~~33.~~ **32.** A male under sixteen years of age or female shall not be allowed to have the care, custody, management, or working of any elevator or lift in any factory or shop.

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

(*a*) to clean such part of the machinery in a factory as is mill gearing while the same is in motion for the purpose of propelling any part of the manufacturing machinery; or

(*b*) to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water, or other mechanical power.

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

Accidents in factories.

~~34.~~ **33.** Where there occurs in a factory any accident, produced either by machinery moved by steam, water, or other power, or through

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a vat, pan, or other structure filled with hot liquid or molten metal, or other substance, or by explosion, or by escape of gas, steam, or metal, which either—

(*a*) causes loss of life to an employee in the factory; or

(*b*) causes bodily injury to any employee in the factory, such as to prevent him from returning to his work in the factory within forty-eight hours of the occurrence of the accident,

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

Doors to open outwardly.

~~35.~~ **34.** (I) In every factory erected after the passing of this Act, and in which ten or more persons are employed, and in any existing factory where the Minister by notice in writing may so require, the main inside and outside doors shall open outwards, and all the doors of every room in a factory, in which persons are actually at work, or of passages leading to such rooms, or serving as entrances and exits shall neither be locked, bolted, nor barred during working hours.

Extinguishing fire.

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

Means of escape from fire.

(III) Every factory three or more storeys in height, in which persons are employed above the second storey, shall be furnished with a certificate from the inspector that the factory is provided with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case.

**(IV) In the event of the occupier objecting to carry out any structural alterations in his buildings required by the inspector he may refer the matter to arbitration, as provided in section twenty-nine.**

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## PART V.

*Ages of persons employed in factories and certificates.*

No child to be employed.

~~36.~~ **35.** No child shall, unless by special permission of the Minister, be employed in any factory; and no such special permission shall be given to a child under the age of thirteen years.

Interval for meals in certain cases.

~~37.~~ **36.** No male under eighteen years of age and no female shall be employed continuously in a factory for more than five hours without an interval of at least half-an-hour for a meal.

Hours of employment may be extended under certain conditions.

~~38.~~ **37.** No male under ~~eighteen~~ **sixteen** years of age and no female shall be employed in a factory for more than forty-eight hours in any one week:

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

No such person, however, may be employed overtime on more than three consecutive days, and such overtime shall be paid for at the rate of time and a half, ~~the minimum rate of such overtime to be sixpence per hour.~~

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

~~39.~~ **38.** No person mentioned in the First Schedule to this Act shall to the extent mentioned therein, be employed in the factories or parts thereof mentioned in that Schedule, and notice of the prohibition shall be posted by the occupier in every factory to which it applies.

Restriction in certain class of employment.

~~40.~~ **39.** (I) A person under the age of sixteen years shall not be employed in such classes of factories as may from time to time be determined by regulation unless the occupier of the factory has obtained a certificate in the prescribed form of the fitness of such person for employment in that factory.

Certificate of fitness.

(II) A certificate of fitness for the purposes of this Act may be granted by any legally qualified medical practitioner, and shall be to the effect that he is satisfied by the production of a certificate of birth or other sufficient evidence that the person named in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

(III) The certificate of birth which shall be produced to such legally qualified medical practitioner may be either—

(*a*) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the Registration of Births of the birth of the person (and such certificate of birth shall be given by the registrar without fee); or

(*b*) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

(IV) The occupier shall, when required, produce to an inspector at the factory at which a person under sixteen years of age is employed the certificate of fitness of such person for employment which he is required to obtain under this section.

Limitation of employment for young persons.

~~41.~~ **40.** No occupier shall employ a male under sixteen years of age or a female under eighteen years of age—

(*a*) in any factory;

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

between the hours of ~~six~~ **seven** o'clock in the evening and ~~seven~~ **six** o'clock in the morning, unless in the case of overtime, and subject to the restrictions contained in section thirty-~~eight:~~ **seven:**

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

Where person under sixteen incapacitated for working daily.

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

Female not to be employed for four weeks after confinement.

~~43.~~ **41.** No female shall be employed during the four weeks immediately after her confinement.

44.

44. No deduction for absence or leaving work, except to the amount of the special damage (if any) which the occupier of the factory may have sustained by reason of such absence or leaving work, shall be made from the wages of any male under eighteen years of age or any female.

Women and young persons not liable to deduction in certain cases.

## PART VI.

*Shops.*

~~45.~~ **42.** (I) Except as hereinafter provided, a male under ~~eighteen~~ **sixteen** years of age or a female **under eighteen years of age** shall not work in or in connection with any shop for a longer time than fifty-two hours in any one week, or for a longer time than nine and a half hours in any one day, except on one day in each week, when eleven and a half hours work may be done, but such shall not apply to the occupier of a shop or any member of the occupier's family employed in such shop: ~~Provided that on one working day in each week no shops shall be open after one o'clock p.m.~~

Limitation of hours of work in certain cases.

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

The shopkeeper shall keep a record of all such hours of work beyond the ordinary working hours, and shall note against the name of each person so employed the extra hours worked by him, and shall furnish a copy of such record to the inspector when called upon to do so.

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

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

(V) The occupier of a shop in which or in connection with which any contravention of this section occurs shall on conviction be liable to a penalty for the first offence of not more than two pounds, and for every subsequent offence of not less than ~~five~~ **two** pounds or more than ~~ten~~ **five** pounds.

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

~~46.~~ **43.** The Governor may, subject to the provisions of this Act, make regulations ~~limiting the total number of hours in the week during~~ **under** which males under ~~eighteen~~ **sixteen** years of age and females **under eighteen years of age** may be employed in any shops of the classes included in the Second Schedule to this Act.

Governor may limit the hours of work for males under eighteen and females in certain ~~shops.~~ **make regulations.**

~~Stamping furniture.~~

47. All furniture, of which wood forms a part, manufactured or prepared either wholly or partly in New South Wales shall, before being sent out of or removed from the building, premises, or place in which it is so manufactured or prepared, be stamped with a stamp of an indelible permanent ink or stain or impression.

Furniture made in Colony to be stamped.

~~48.~~

Stamp to show certain particulars and not to be covered.

48. (I) The stamp shall set forth in legible type the manufacturer's true name, and the address of the place in which such furniture was manufactured or prepared. If it was only partly manufactured or prepared by such manufacturer, the words "partly prepared by" shall be stamped above his name and address.

(II) The stamp shall be placed on some part of the furniture where it can be clearly and easily seen and read upon examining such furniture.

(III) Where an article of such furniture has been manufactured or prepared solely by European labour, such stamp shall also set forth in legible type the words "European labour only."

(IV) Where an article of such furniture has been manufactured or prepared solely or partly by the labour of any Chinese or other Asiatic person, such stamp shall also set forth in legible type the words "Chinese labour."

(V) Where an article of such furniture has been manufactured or prepared partly by European labour and partly by the labour of persons other than Chinese, such stamp shall also set forth in legible type the words "European and other labour."

Meaning of European labour and "Chinese."

(VI) "European labour" means the labour of persons born in Europe, or of their descendants, whether born in any British Colony or possession, in the United States of America, or elsewhere, and "Chinese" includes persons having a Chinese father and mother.

Penalty.

49. Every person—

(*a*) who wholly or partly manufactures or prepares furniture of which wood forms a part, and who fails or omits to cause such furniture to be stamped as in this Act provided; or

(*b*) who exposes for sale or sells any such furniture, wholly manufactured or prepared by persons other than himself or his immediate employees, and stamps the same with his own stamp; or

(*c*) who, on any furniture wholly or partly made by persons other than himself or his immediate employees, places a stamp implying or stating that such furniture was made by himself only; or

(*d*) who falsely stamps any such furniture; or

(*e*) who knowingly exposes for sale, or sells or offers for sale, any such furniture, manufactured or prepared either wholly or partly in New South Wales, after the commencement of this Act, which is not stamped pursuant to this Act, or which he knows to be falsely stamped; or

(*f*) who removes or erases from, or alters or adds to, or attempts to remove or erase from, or alter or add to, any stamp on any furniture; or

(*g*) who fails to stamp all furniture in stock in his factory or workroom or shop immediately on the passing of this Act with the words "In stock, one thousand eight hundred and ninety-six"—

shall be guilty of an offence, and shall on conviction be liable to a penalty for the first offence of not more than five pounds, and for every subsequent offence of not less than ten pounds or more than ~~twenty pounds.~~

PART

The State has ~~gone~~ refused to recognise any Creed



## PART VII.

*Miscellaneous.*

**44.** Where the occupier of a factory or shop is of the Jewish religion the provisions of this Act with respect to the hours of employment of males under sixteen years of age, and females under eighteen years of age, shall not prevent him—

(a) if he keeps his factory or shop closed on Saturday until sunset from employing such persons on Saturday from after sunset until nine o'clock in the evening; or

(b) if he keeps his factory or shop closed on Saturday both before and after sunset from employing such persons one hour every other day of the week (not being Sunday) in addition to the hours allowed by this Act, so that such hour be at the beginning or end of the period of employment, and be not before six o'clock in the morning or after seven o'clock in the evening, and that subject to the provisos as to overtime the total number of hours in any one week be not more than is specified in sections thirty-seven and forty-two respectively.

Employment of males under 16 and females under 18 years of age by Jewish occupiers of factories or shops.

41 and 42 Vic., c. 16, s. 50.

**45.** No penalty shall be incurred by any person in respect of any work done on Sunday in a factory or shop by an occupier or employee of the Jewish religion, subject to the following conditions:—

(a) The occupier of the factory or shop and the employees so at work shall be of the Jewish religion, and

(b) The factory or shop shall be closed on Saturday, or in the case of a shop shall be closed on Saturday until sunset, and

(c) Neither such factory nor such shop shall be open for traffic on Sunday, and

(d) The occupier shall not avail himself of the exception authorising the employment of males under the age of sixteen years and females under the age of eighteen years on Saturday evening or for an additional hour during every other day of the week.

Employment of Jews by Jews on Sunday.

Ib. s. 51.

~~50.~~ **46.** Every breach or contravention of this Act, or the regulations thereunder, shall be reported to the Minister by the inspector in manner prescribed, and no prosecution shall be instituted without the authority of the Minister.

No prosecution without authority of Minister.

~~51.~~ **47.** No occupier of a factory or shop shall contract with any employee against any liability under this Act, ~~or shall make any~~ deductions whatsoever from the wages of any employee under the definition of accident assurance or with the object of securing indemnification through employees of any liability under this Act; and any person so offending shall be liable to a penalty not exceeding two pounds for every such offence.

Penalty for contracting against liability with employees or deducting from wages therefor.

Occupier not to contract with employees against liability.

~~52.~~ **48.** All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. And if the amount of any such penalty, together with the costs (if any) ordered to be paid upon any conviction be not paid within the time mentioned in the order, payment thereof may be enforced by distress and sale of the offender's goods and chattels, and in default of sufficient distress such offender shall be liable to imprisonment for such term as may be provided by this Act or the regulations for the offence of which he was convicted, or if no special term be provided, for any term not exceeding three calendar months, unless such penalty and costs be sooner paid.

Recovery of penalties.

~~53.~~ **49.** Any order or notice to be served under this Act, or the regulations thereunder, and any summons to be served in respect of any breach or contravention of the provisions of this Act, or the regulations thereunder, or for the recovery of any penalty, shall be deemed to be duly served upon the occupier of a factory or a shop, if such order, notice, or summons be affixed to the door or some other conspicuous part of the factory or shop. Service of order, notice, or summons.

~~54.~~ **50.** If a factory or shop is not kept in conformity with this Act, or of the regulations thereunder, or if in any factory or shop there is a contravention or breach of any of the provisions of this Act, or of the regulations thereunder, or if the occupier of a factory or shop fails to comply with an order or request made by the Minister or an inspector in pursuance of the Act or regulations, the occupier shall on conviction, if no other penalty is provided, be liable to a penalty not exceeding ten pounds. The magistrate or justices, in addition to or instead of inflicting a penalty, may order certain means to be adopted by the occupier within some time to be named in the order for the purpose of bringing his factory or shop into conformity with this Act, and may upon application enlarge the time so named; and if after the expiration of the time originally named or enlarged upon subsequent application the order is not complied with, the occupier shall be liable to a penalty not exceeding one pound for every day that such non-compliance continues. Penalty for not keeping factory or shop in conformity with this Act.

~~55.~~ **51.** Where any person is employed in a factory or shop contrary to the provisions of this Act, the occupier of the factory or shop shall be liable to a penalty not exceeding ~~three~~ **two** pounds, or if the offence was committed during the night, ~~five~~ **three** pounds for each person so employed. A person who is not allowed time for meals ~~and absence from work~~ as required by this Act, or is in contravention of the provisions of this Act employed in the factory or shop, shall be deemed to be employed contrary to the provisions of this Act. Penalty for employing a person contrary to Act.

~~56.~~ **52.** The parent or guardian **having control** of a ~~child or~~ **male person under sixteen years of age, or female** person under eighteen years of age shall, if such ~~child or~~ person is employed in a factory **or shop** contrary to the provisions of this Act, be liable, on summary conviction before a stipendiary or police magistrate or any two or more justices of the peace, to a penalty not exceeding twenty shillings, ~~or to imprisonment for any period not exceeding seven days~~ for each offence, unless it appears that such offence was committed without the consent, connivance, or wilful default of the parent or guardian. Parents liable to penalty in certain cases.

~~57.~~ **53.** Where a male or female employee is in the opinion of the Court apparently of the age alleged by the informant, it shall lie on the defendant to prove that such employee is not of that age. Proof of age of employees.

~~58.~~ **54.** Any person who forges or counterfeits any certificate for the purposes of this Act (for the forgery or counterfeiting of which no other punishment is provided), or who knowingly utters or makes use of any certificate so forged or counterfeited, or who personates any person named in a certificate, shall be liable to imprisonment for a term not exceeding twelve months, with or without hard labour. Any person who wilfully makes a false entry in any book, register, notice, certificate, list, record, or document required by this Act to be kept or served, or who wilfully makes or signs a false declaration or return under this Act, or who knowingly makes use of any false entry or false declaration or return, shall, on summary conviction before a stipendiary or police magistrate, or any two or more justices of the peace, be liable to a **penalty not exceeding twenty pounds for each offence or to** be imprisoned for a term not exceeding ~~six~~ **three** months, with or without hard labour. Penalty for forging certificate and false declaration.

~~59.~~

~~59.~~ **55.** Where the occupier of a factory is charged with an offence against this Act or the regulations thereunder, he shall be entitled upon information duly laid by him to have any other person whom he charges to be the actual offender brought before the magistrate or justices at the time appointed for hearing the charge, and if after the commission of the offence has been proved, the occupier of the factory proves to the satisfaction of the magistrate or justices that he used due diligence to enforce the provisions of the Act and regulations, and that the said other person committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the occupier shall be exempt from any penalty.

Exemption of occupier from fine on conviction of the actual offender.

~~60.~~ **56.** In addition to the powers already conferred the Governor may, by notice in the *Gazette*, from time to time, make, alter, and repeal regulations ~~for fixing a scale of fees to be taken and received for the registration of factories under this Act; for fixing a scale of fees to be taken by certified medical practitioners for examinations and reports;~~ for prescribing forms of notices to be given and returns and records to be made under this Act, and the particulars to be set forth therein; and generally for carrying into effect the provisions of this Act; and may impose any penalty not exceeding ~~fifty~~ **twenty** pounds for the breach of any regulation.

Governor to have power to make regulations.

## SCHEDULES.

### FIRST SCHEDULE.

*Factories in which the employment of persons is restricted.*

1. In a part of a factory in which there is carried on—
(*a*) the process of silvering of mirrors by the mercurial process; or
(*b*) the process of making white-lead—
a person under eighteen years shall not be employed.

2. In the part of a factory in which the process of melting or annealing glass is carried on, a male person under sixteen years of age and a female under eighteen years of age shall not be employed.

3. In a factory in which there is carried on—
(*a*) the making or finishing of bricks or tiles, not being ornamental tiles; or
(*b*) the making or finishing of salt—
a female under eighteen years of age shall not be employed.

4. In a part of a factory in which there is carried on—
(*a*) any dry grinding in the metal trade;
(*b*) the dipping of lucifer matches—
a person under sixteen years of age shall not be employed.

5. No person under sixteen years of age shall be employed at or in connection with any manufacturing process or machine where continuous casting from molten lead or any combination thereof is carried on in a printing establishment.

### SECOND SCHEDULE.

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

Sydney: Charles Potter, Government Printer.—1896.

[1s.]

1896.

Legislative Council.

# FACTORIES AND SHOPS BILL.

(*New Clauses to be proposed in Committee of the Whole by* MR. PULSFORD.)

*Before* clause 50 *insert* the following new clauses :—

Where the occupier of a factory or shop is of the Jewish religion the provisions of this Act with respect to the hours of employment of males under sixteen years of age, and females under eighteen years of age, shall not prevent him— 41 and 42 Vic., c. 16, s. 50.

(*a*) If he keeps his factory or shop closed on Saturday until sunset from employing such persons on Saturday from after sunset until nine o'clock in the evening.

(*b*) If he keeps his factory or shop closed on Saturday both before and after sunset from employing such persons one hour every other day of the week (not being Sunday) in addition to the hours allowed by this Act, so that such hour be at the beginning or end of the period of employment, and be not before six o'clock in the morning or after nine o'clock in the evening, and that subject to the provisos as to overtime the total number of hours in any one week be not more than is specified in sections thirty-eight and forty-five respectively.

No penalty shall be incurred by any person in respect of any work done on Sunday in a factory or shop by an occupier or employee of the Jewish religion, subject to the following conditions :— *Ib.* s. 51.

(*a*) The occupier of the factory or shop shall be of the Jewish religion, and

(*b*) The factory or shop shall be closed on Saturday, or in the case of a shop shall be closed on Saturday until sunset, and

(*c*) Neither such factory nor such shop shall be open for traffic on Sunday, and

(*d*) The occupier shall not avail himself of the exception authorising the employment of males under the age of sixteen years and females under the age of eighteen years on Saturday evening or for an additional hour during every other day of the week.

1896.

Legislative Council.

# FACTORIES AND SHOPS BILL.

(*Amendment to be proposed in Committee of the Whole by* MR. CREED.)

Page 1, line 8. *After* "1896" *insert* "but it shall remain in force "for three years only after the coming into force thereof: "Provided also that the Governor, upon a resolution passed "by the Legislative Assembly in favour thereof, shall, by a "notice in the *Gazette*, suspend the operation of any of the "provisions of the Act from the date of such *Gazette*."

1896.

Legislative Council.

# FACTORIES AND SHOPS BILL.

(*Amendments and new clause to be proposed in Committee of the Whole by* Mr. Kater.)

Page 2, clause 2, line 20. *After* "produce" *insert* "nor any wool-shed used for shearing sheep"

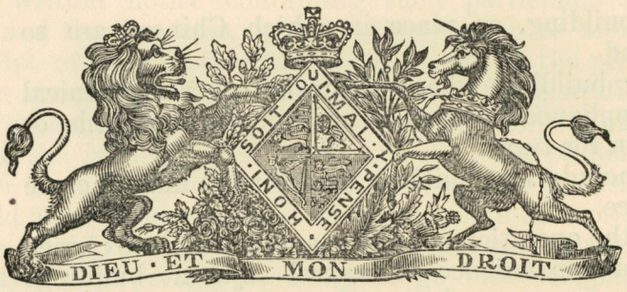
Page 6. *After* clause 21 *insert* the following new clause:—

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

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

Page 10, clause 35. At the end of clause *insert* as subsection (IV):—

In the event of the occupier objecting to carry out any structural alterations in his buildings required by the inspector he may refer the matter to arbitration, as provided in clause thirty.



*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.*

*Legislative Assembly Chamber,*
*Sydney, 3 September, 1896.*

F. W. WEBB,
*Clerk of the Legislative Assembly.*

# New South Wales.

ANNO SEXAGESIMO

# VICTORIÆ REGINÆ.

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

## No. .

An Act to make provision for the supervision and regulation of Factories, Bakehouses, Laundries, Dye-works, and Shops; for the limitation in certain cases of the hours of working therein; and for the stamping of Furniture; to extend the liability of employers for injuries suffered by employees in certain cases; and for other purposes.

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

1. This Act shall come into force on the first day of January, one thousand eight hundred and ninety-seven (hereinafter referred to as the commencement of the Act), and may be cited as the "Factories and Shops Act of 1896." It is divided into seven Parts, embracing the following subjects, that is to say:— Short title.

PART I.—*Appointments—Registration and inspection.*
PART II.—*Records.*
PART III.—*Sanitary arrangements, &c.*
PART IV.—*Fencing of machinery—Protection from fire.*
PART V.—*Ages of persons employed and certificates.*
PART VI.—*Shops—Stamping furniture.*
PART VII.—*Miscellaneous.*

2. In this Act, unless the context requires another meaning,— Interpretation.

"Child" means any person under the age of fourteen years.

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

"Factory" includes—

(*a*) any office, building, or place in which four or more persons are engaged directly or indirectly in working at any handicraft, or in preparing or manufacturing articles for trade or sale; and includes bakehouses, laundries, and dye-works;

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

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

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

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

"Governor" means the Governor, with the advice of the Executive Council.

"Inspector" means an inspector of factories and shops, appointed under this Act.

"Minister" means the Minister for the time being administering this Act.

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

"Prescribed" means prescribed by this Act or regulations under this Act.

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

"Shopkeeper" means the occupier of a shop.

3. (I) This Act, except as regards shops, shall apply only to such localities as are declared by the Governor, by proclamation in the *Gazette*, to be a district or districts for the purposes of this Act. Act to apply only to declared districts.

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

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

PART

## PART I.

*Appointment of inspectors; registration and inspection of factories, and inspection of shops.*

4. The Governor may appoint so many inspectors of factories and shops as may appear necessary for carrying into effect the provisions of this Act, and may assign one or more districts to one or more inspectors. Appointment of inspectors.

5. Every person who at the commencement of this Act is the occupier of a factory shall within twenty-eight days thereof serve on the inspector of the district, or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed, and the inspector, or such other person as aforesaid, shall on the receipt of such notice and the payment of the prescribed fee register the factory, and issue a certificate of registration to such occupier authorising the use of the factory for one year or portion of a year; but the issue of such certificate shall not be held to relieve the occupier from compliance with any of the other provisions of this Act. Should any occupier neglect or omit to serve the notice as herein provided he shall be liable to a penalty not exceeding twenty pounds. Registration of existing factories.

6. (I) Every person intending to go into occupation of any unregistered factory shall, not less than seven days before going into occupation, and Registration of new factories.

(II) Every person in occupation of any tenement which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall, not less than seven days before it is so used as a factory,

forward to the inspector of the district or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice, and on being satisfied that the building is suitable for a factory, shall, on payment of the prescribed fee, register the building, and issue a certificate of registration to the occupier authorising its use as a factory for one year or portion of a year; but the issue of such certificate shall not be held to relieve the occupier from compliance with any of the other provisions of this Act.

Any occupier or intending occupier who fails to comply with the provisions of this section shall be liable to a penalty not exceeding ten pounds.

7. On or before the thirty-first day of July in each year, the occupier of every registered factory shall apply for a renewal of the certificate of registration for the following year by written application served upon the inspector of the district or such other person as the Governor may appoint, and accompanied by a return specifying any alterations which have been made, since the issue of such certificate of registration or the last renewal thereof, in the structure of the factory, the moving power, and the work done therein, and containing such further particulars as may be prescribed, and in default shall be liable to a penalty not exceeding twenty pounds; and the inspector or such other person as aforesaid shall, upon receipt of the said application and return, and the payment of the prescribed fee, enter the particulars thereof in a register to be kept by him, and send to the occupier a certificate of renewal in such form as may be prescribed; but the issue of such certificate of renewal shall not be held to relieve the occupier from compliance with any of the other provisions of this Act. Renewal of registration.

8. The occupier of a factory which is not registered as in this Act provided shall be liable to a penalty not exceeding ten pounds, in addition to any liability to which he may be liable under the preceding sections. Penalty for non-registration.

9.

Powers of inspectors.

9. Every inspector shall have power—

(I) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;

(II) to take with him in either case a constable, an officer of health, or inspector of nuisances; and any such constable, officer of health, or inspector of nuisances may at all reasonable times enter and inspect any factory or shop;

(III) to require the production of the certificate of registration of any factory or of the renewal thereof, or any book, notice, record, list, or document which is by this Act, or the regulations thereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;

(IV) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;

(V) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined;

(VI) to exercise all other powers that may be necessary for carrying out the provisions of this Act, or of such provisions of any Act relating to public health as the Governor may from time to time determine.

Occupiers to allow entry and inspection.

10. The occupier of every factory or shop, his agents and servants, shall at all times furnish the means required by an inspector necessary for an entry, inspection, examination, and inquiry, or the exercise of his powers under this Act in relation to such factory or shop, and shall give every assistance in his or their power to an inspector in the performance of his duties under this Act.

Obstructing an inspector.

11. Every person who wilfully delays an inspector in the exercise of any power under this Act, or who fails to comply with a requisition of an inspector made under any such power as aforesaid, or to furnish the means required by an inspector as provided in the last preceding section, or to produce any certificate of registration, book, record, certificate, notice, list, or document which he is required by or in pursuance of this Act to produce, or who conceals or prevents any person from appearing before or being examined by an inspector, or attempts so to conceal or prevent any person, shall be deemed to obstruct an inspector in the execution of his duties under this Act, and shall for each offence be liable to a penalty not exceeding twenty pounds.

Inspector to produce certificate of appointment.

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

Penalty for forging certificate, &c.

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

PART

## PART II.

### *Records.*

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

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

(*a*) the name and address of the inspector for the district;

(*b*) the working hours of the factory.

15. The occupier of a factory shall, if so required by the Minister furnish to him a scale of the wages paid to the employees therein, and also the rates of payment made for piecework to the persons working in and in connection with such factory, and the wages and rates so stated shall be taken as evidence of the wages payable and the rates of payment in any legal proceedings by employees to recover money due for wages or piecework. Scale of wages and piecework to be posted up in certain cases.

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

(*a*) the name of every person employed, directly or indirectly, by him in the business of a factory outside such factory;

(*b*) the places where those persons are employed;

(*c*) the rate of payment in each instance.

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

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

(IV) The Minister shall publish in the *Gazette* for general information any such particulars contained in any records or scale of wages referred to in this or the preceding section, as the Governor may from time to time think it necessary or desirable so to publish, including, if the Governor thinks fit, the name and address of any occupier.

17. Every person who, whether as principal, contractor, sub-contractor, or otherwise, directly or indirectly issues or gives out, or authorises or permits to be issued or given out, any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale, shall be deemed to be the occupier of a factory for the purposes of this section; and the person to whom such material is issued or given out shall, for the purposes of this section, be deemed to be employed by the occupier in the business of the factory outside such factory. Occupier for purposes of this section.

18. Any inspector who divulges the contents of any record or makes use of his knowledge of the contents thereof, except to the Minister or for the purposes of this Act or for enforcing the provisions thereof, or for statistical purposes in connection with a Department of the Public Service, shall be liable to a penalty not exceeding fifty pounds, or to imprisonment with hard labour for any term not exceeding six months. Inspector not to divulge contents of records.

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

PART

## PART III.

*Sanitary arrangements, &c.*

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

Factories and shops to be kept clean and well ventilated.

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

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

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

Painting, varnishing, and washing of the interior of factories.

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

Papered walls.

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

Evidence of lime-washing, painting, &c.

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

Bakehouses not to be used as sleeping places.

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

(II) no earth, or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse;

Privies, &c., not to communicate with bakehouse.

(III) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet;

(IV) no drain-pipe for carrying off fæcal or sewage matter shall have an opening within the bakehouse.

Any person who lets or occupies, or continues to let or knowingly suffers to be occupied, any place in which there is a breach

Penalty for above.

breach of the provisions of this section shall be liable to a penalty not exceeding for the first offence twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds.

Meals not to be taken in factories in certain cases.

23. The Minister may, by notice in writing, forbid the occupier of a factory to permit any employees therein to take their meals in any room while work is being carried on therein, and may direct an occupier to erect or provide a suitable room or place in the factory or in connection therewith for the purpose of a dining or eating room for employees in such factory.

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

Ventilation, &c., in certain cases.

24. If it appear to the inspector that—

(*a*) in a factory where grinding, glazing, or polishing on a wheel, or any other process is carried on whereby dust is generated which is inhaled by the employees to an injurious extent, such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means of ventilation; or

Humidity by steaming, &c.

(*b*) in a factory in which atmospheric humidity is artificially produced by steaming or other mechanical appliances whereby the health of the employees is or may be injuriously affected, such humidity could be to a great extent lessened by the adoption of a sufficient means of prevention;

Means of prevention.

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

Sitting accommodation for females.

25. (I) Every occupier of a factory or shop shall cause to be provided suitable sitting accommodation for all females employed in his shop in the proportion of one seat to every three females employed, and such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided.

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

Avoidance of infection.

26. If any occupier within the meaning of section seventeen causes or allows wearing apparel to be made, cleaned, or repaired in any building, any inmate of which is suffering from leprosy, small-pox, asiatic cholera, typhoid fever, scarlet fever, diphtheria, membranous croup, or such other disease as may be declared to be an infectious disease under the provisions of any Public Health Act now or hereafter in force in New South Wales, he shall be liable to a penalty not exceeding fifty pounds, unless he proves that he was not aware of the existence of the illness in the building, and could not reasonably have been expected to become aware of it.

PART

## PART IV.

*The fencing of machinery and protection from fire.*

27. The traversing carriage of any self-acting machine erected after the commencement of this Act shall not be allowed to run out within a distance of eighteen inches from any fixed structure not being part of the machine, if the space over which it so runs out is a space over which any person is likely to pass, whether in the course of his employment or otherwise.

Traversing carriage of self-acting machine.

28. In any action brought by an employee in a factory or by his representatives to recover damages from his employer for personal injury caused by the act or default of any person placed in charge of a steam-engine or boiler used in connection with the factory, the fact of the injury shall be *primâ facie* evidence—

Liability of employer for injury caused by act or default of person in charge of steam-engine or boiler.

(*a*) that the person so placed in charge was incompetent;

(*b*) that the defendant was guilty of negligence in employing him;

(*c*) that the plaintiff was injured through that person's incompetence,

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

29. The occupier of a factory shall securely fence all dangerous parts of the machinery therein, and with respect to such fencing the following provisions shall have effect:—

Dangerous machinery to be fenced.

(I) every hoist or teagle and every fly-wheel directly connected with the steam or water or other mechanical power whether in the engine-house or not, and every part of a steam-engine and water wheel shall be securely fenced; and

(II) every wheel-race not otherwise secured shall be securely fenced close to the edge of the wheel-race; and

(III) every part of the mill gearing shall either be securely fenced or be in such position or of such construction as to be equally safe to every person employed in the factory or workroom as it would be if it were securely fenced; and

(IV) all fencing shall be constantly maintained in an efficient state while the parts required to be fenced are in motion or use for the purpose of any manufacturing process.

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

30. If an inspector considers that in a factory any machinery is not securely fenced, and is so dangerous as to be likely to cause bodily injury to any person employed in the factory—

Safeguards from machinery to be provided.

(I) the inspector shall serve on the occupier of the factory a written notice to fence the machinery which he considers dangerous as aforesaid;

(II) the occupier within seven days from the receipt of such notice may serve on the inspector a written requisition to refer the matter to arbitration, and, thereupon, the matter shall be referred to arbitration, to be conducted under the regulations;

(III) if the arbitrators or their umpire decide that it is unnecessary or impracticable to fence the machinery alleged in the notice to be dangerous, the notice shall be cancelled and the occupier shall not be required to fence in pursuance thereof, and the costs of the reference shall be paid as the expenses of the inspector under this Act;

(iv) if the occupier does not within the said seven days serve on the inspector a requisition to refer the matter to arbitration, or does not appoint an arbitrator within the time required by the regulations, or if the arbitrators or the umpire decide that it is necessary and practicable to fence the machinery alleged in the notice to be dangerous, the occupier shall securely fence such machinery in accordance with the notice, or with the award of the arbitrators or umpire, if it modifies the notice, and the costs of the reference shall be borne by either or both parties to the arbitration as the arbitrators or the umpire may decide, and any portion of the costs to be borne by the occupier shall be a debt due by him to the inspector, and shall be recoverable in any court of competent jurisdiction;

(v) if the occupier of a factory fails to comply within a reasonable time with the notice or award, or fails to keep the said machinery securely fenced in accordance therewith, or fails to constantly maintain such fencing in an efficient state while the machinery required to be fenced is in motion, the factory shall be deemed not to be kept in conformity with this Act.

Dangerous machinery.

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

Hoists and lifts to be protected.

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

Unsafe or dangerous elevator or lift.

(ii) If an elevator or lift in a factory or shop used for the conveyance of employees or other persons is considered by an inspector to be unsafe or dangerous to use, he may prohibit the occupier or shopkeeper from using such elevator or lift until it is made safe to the inspector's satisfaction. Should any occupier or shopkeeper use, or permit to be used, such elevator or lift at any time whilst its use is so prohibited, he shall be liable to a penalty of twenty shillings for each time such elevator or lift is so used.

Restriction on employment of females and males under certain ages.

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

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

(*a*) to clean such part of the machinery in a factory as is mill gearing while the same is in motion for the purpose of propelling any part of the manufacturing machinery; or

(*b*) to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water, or other mechanical power.

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

Accidents in factories.

34. Where there occurs in a factory any accident, produced either by machinery moved by steam, water, or other power, or through

a vat, pan, or other structure filled with hot liquid or molten metal, or other substance, or by explosion, or by escape of gas, steam, or metal, which either—

(*a*) causes loss of life to an employee in the factory; or

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

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

Doors to open outwardly.

35. (I) In every factory erected after the passing of this Act, and in which ten or more persons are employed, and in any existing factory where the Minister by notice in writing may so require, the main inside and outside doors shall open outwards, and all the doors of every room in a factory, in which persons are actually at work, or of passages leading to such rooms, or serving as entrances and exits shall neither be locked, bolted, nor barred during working hours.

Extinguishing fire.

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

Means of escape from fire.

(III) Every factory three or more storeys in height, in which persons are employed above the second storey, shall be furnished with a certificate from the inspector that the factory is provided with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case.

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## PART V.

### *Ages of persons employed in factories and certificates.*

No child to be employed.

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

Interval for meals in certain cases.

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

Hours of employment may be extended under certain conditions.

38. No male under eighteen years of age and no female shall be employed in a factory for more than forty-eight hours in any one week:

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

No such person, however, may be employed overtime on more than three consecutive days, and such overtime shall be paid for at the rate of time and a half, the minimum rate of such overtime to be sixpence per hour.

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

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

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

(II) A certificate of fitness for the purposes of this Act may be granted by any legally qualified medical practitioner, and shall be to the effect that he is satisfied by the production of a certificate of birth or other sufficient evidence that the person named in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

(III) The certificate of birth which shall be produced to such legally qualified medical practitioner may be either—

(*a*) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the Registration of Births of the birth of the person (and such certificate of birth shall be given by the registrar without fee); or

(*b*) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

(IV) The occupier shall, when required, produce to an inspector at the factory at which a person under sixteen years of age is employed the certificate of fitness of such person for employment which he is required to obtain under this section.

41. No occupier shall employ a male under sixteen years of age or a female under eighteen years of age— Limitation of employment for young persons.

(*a*) in any factory;

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

between the hours of six o'clock in the evening and seven o'clock in the morning, unless in the case of overtime, and subject to the restrictions contained in section thirty-eight:

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

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

43. No female shall be employed during the four weeks immediately after her confinement. Female not to be employed for four weeks after confinement.

44.

44. No deduction for absence or leaving work, except to the amount of the special damage (if any) which the occupier of the factory may have sustained by reason of such absence or leaving work, shall be made from the wages of any male under eighteen years of age or any female.

Women and young persons not to be liable to deduction in certain cases.

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## PART VI.

### *Shops.*

45. (I) Except as hereinafter provided, a male under eighteen years of age or a female shall not work in or in connection with any shop for a longer time than fifty-two hours in any one week, or for a longer time than nine and a half hours in any one day, except on one day in each week, when eleven and a half hours work may be done, but such shall not apply to the occupier of a shop or any member of the occupier's family employed in such shop: Provided that on one working day in each week no shops shall be open after one o'clock p.m.

Limitation of hours of work in certain cases.

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

The shopkeeper shall keep a record of all such hours of work beyond the ordinary working hours, and shall note against the name of each person so employed the extra hours worked by him, and shall furnish a copy of such record to the inspector when called upon to do so.

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

(IV) No male under eighteen years of age and no female shall be employed during any day in any shop, or at any work in connection with a shop, if he or she has been previously employed the same day in a factory for eight hours, or for a longer time than will when added to the time worked by him or her in any factory exceed eight hours in the whole.

(V) The occupier of a shop in which or in connection with which any contravention of this section occurs shall on conviction be liable to a penalty for the first offence of not more than two pounds, and for every subsequent offence of not less than five pounds or more than ten pounds.

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

46. The Governor may, subject to the provisions of this Act, make regulations limiting the total number of hours in the week during which males under eighteen years of age and females may be employed in any shops of the classes included in the Second Schedule to this Act.

Governor may limit the hours of work for males under eighteen and females in certain shops.

### *Stamping furniture.*

47. All furniture, of which wood forms a part, manufactured or prepared either wholly or partly in New South Wales shall, before being sent out of or removed from the building, premises, or place in which it is so manufactured or prepared, be stamped with a stamp of an indelible permanent ink or stain or impression.

Furniture made in Colony to be stamped.

48. (I) The stamp shall set forth in legible type the manufacturer's true name, and the address of the place in which such furniture was manufactured or prepared. If it was only partly manufactured or prepared by such manufacturer, the words "partly prepared by" shall be stamped above his name and address. Stamp to show certain particulars and not to be covered.

(II) The stamp shall be placed on some part of the furniture where it can be clearly and easily seen and read upon examining such furniture.

(III) Where an article of such furniture has been manufactured or prepared solely by European labour, such stamp shall also set forth in legible type the words "European labour only."

(IV) Where an article of such furniture has been manufactured or prepared solely or partly by the labour of any Chinese or other Asiatic person, such stamp shall also set forth in legible type the words "Chinese labour."

(V) Where an article of such furniture has been manufactured or prepared partly by European labour and partly by the labour of persons other than Chinese, such stamp shall also set forth in legible type the words "European and other labour."

(VI) "European labour" means the labour of persons born in Europe, or of their descendants, whether born in any British Colony or possession, in the United States of America, or elsewhere, and "Chinese" includes persons having a Chinese father and mother. Meaning of European labour and "Chinese."

49. Every person— Penalty.

(*a*) who wholly or partly manufactures or prepares furniture of which wood forms a part, and who fails or omits to cause such furniture to be stamped as in this Act provided; or

(*b*) who exposes for sale or sells any such furniture, wholly manufactured or prepared by persons other than himself or his immediate employees, and stamps the same with his own stamp; or

(*c*) who, on any furniture wholly or partly made by persons other than himself or his immediate employees, places a stamp implying or stating that such furniture was made by himself only; or

(*d*) who falsely stamps any such furniture; or

(*e*) who knowingly exposes for sale, or sells or offers for sale, any such furniture, manufactured or prepared either wholly or partly in New South Wales, after the commencement of this Act, which is not stamped pursuant to this Act, or which he knows to be falsely stamped; or

(*f*) who removes or erases from, or alters or adds to, or attempts to remove or erase from, or alter or add to, any stamp on any furniture; or

(*g*) who fails to stamp all furniture in stock in his factory or workroom or shop immediately on the passing of this Act with the words "In stock, one thousand eight hundred and ninety-six"—

shall be guilty of an offence, and shall on conviction be liable to a penalty for the first offence of not more than five pounds, and for every subsequent offence of not less than ten pounds or more than twenty pounds.

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PART

## PART VII.

### *Miscellaneous.*

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

No prosecution without authority of Minister.

51. No occupier of a factory or shop shall contract with any employee against any liability under this Act, or shall make any deductions whatsoever from the wages of any employee under the definition of accident assurance or with the object of securing indemnification through employees of any liability under this Act; and any person so offending shall be liable to a penalty not exceeding two pounds for every such offence.

Penalty for contracting against liability with employees or deducting from wages therefor.

52. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. And if the amount of any such penalty, together with the costs (if any) ordered to be paid upon any conviction be not paid within the time mentioned in the order, payment thereof may be enforced by distress and sale of the offender's goods and chattels, and in default of sufficient distress such offender shall be liable to imprisonment for such term as may be provided by this Act or the regulations for the offence of which he was convicted, or if no special term be provided, for any term not exceeding three calendar months, unless such penalty and costs be sooner paid.

Recovery of penalties.

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

Service of order, notice, or summons.

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

Penalty for not keeping factory or shop in conformity with this Act.

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

Penalty for employing a person contrary to Act.

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

Parents liable to penalty in certain cases.

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

Proof of age of employees.

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

Penalty for forging certificate and false declaration.

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

Exemption of occupier from fine on conviction of the actual offender.

60. In addition to the powers already conferred the Governor may, by notice in the *Gazette*, from time to time, make, alter, and repeal regulations for fixing a scale of fees to be taken and received for the registration of factories under this Act; for fixing a scale of fees to be taken by certified medical practitioners for examinations and reports; for prescribing forms of notices to be given and returns and records to be made under this Act, and the particulars to be set forth therein; and generally for carrying into effect the provisions of this Act; and may impose any penalty not exceeding fifty pounds for the breach of any regulation.

Governor to have power to make regulations.

SCHEDULES.

## SCHEDULES.

### FIRST SCHEDULE.

*Factories in which the employment of persons is restricted.*

1. In a part of a factory in which there is carried on—
(*a*) the process of silvering of mirrors by the mercurial process; or
(*b*) the process of making white-lead—
a person under eighteen years shall not be employed.

2. In the part of a factory in which the process of melting or annealing glass is carried on, a male person under sixteen years of age and a female under eighteen years of age shall not be employed.

3. In a factory in which there is carried on—
(*a*) the making or finishing of bricks or tiles, not being ornamental tiles; or
(*b*) the making or finishing of salt—
a female under eighteen years of age shall not be employed.

4. In a part of a factory in which there is carried on—
(*a*) any dry grinding in the metal trade;
(*b*) the dipping of lucifer matches—
a person under sixteen years of age shall not be employed.

5. No person under sixteen years of age shall be employed at or in connection with any manufacturing process or machine where continuous casting from molten lead or any combination thereof is carried on in a printing establishment.

### SECOND SCHEDULE.

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

Sydney: Charles Potter, Government Printer.—1896.

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