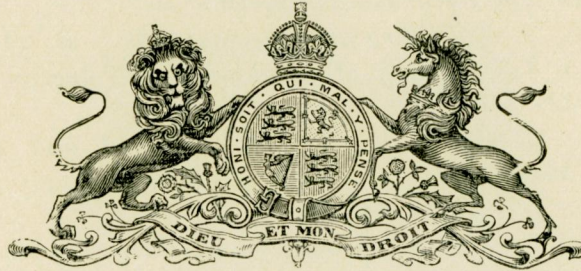


New South Wales.



ANNO TERTIO

GEORGI V REGIS.

Act No. 39, 1912.

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

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

PART I.

PRELIMINARY.

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

PART I.—PRELIMINARY—ss. 1-2.

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

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

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DIVISION

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DIVISION 2.—*Records*—ss. 14-19.

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

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

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

DIVISION 6.—*Shops*—ss. 50-51.

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

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

Repeal and savings.

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 The Acts specified in Schedule One are hereby repealed; but such repeal shall not prejudice or affect the validity or duration of any license, permit, exemption, or authority lawfully granted under any such Act.

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notices given, certificates of registration granted, and regulations made under the authority of any Act hereby repealed, and being in force at the passing of this Act, shall be and continue in force hereunder, and shall be deemed to have been published, given, granted, and made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

All persons appointed under the Acts hereby repealed, and holding office at the time of the passing of this Act, shall remain in office as if this Act had been in force at the time they were appointed and they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

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

PART II.

FACTORIES AND SHOPS.

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

Interpr tation.

60 Vic. No. 37, s. 2

No. 28, 1909, s. 2.

3. In this Part of this Act, unless the context requires another meaning—

“Bakehouse” means any place in which any bread, pastry, sweetmeats, or sugar goods are made or baked for sale, and includes any place or room used in connection with the bakehouse

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bakehouse for storing such food when baked or to be baked, or any material to be used for the manufacture of such food to be baked.

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

“Employee” means any person in the employment of an occupier. *Ibid.*

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

“Factory” means—

60 Vic. No. 37, s. 2.

(a) any office, building, or place in which four or more persons are engaged directly or indirectly in working at any handicraft, or in preparing or manufacturing articles for trade or sale; and includes laundries and dyeworks in which four or more persons are engaged; but does not include any building or place in which the persons engaged in working are shown to the satisfaction of the Minister to be all members of one family, and in which steam or other mechanical power is not used; No. 28, 1909, s. 2(b).

(b) any office, building, or place in which one or more Chinese are so engaged; *Ibid.* s. 2 (c).

(c) any place or building where steam or other mechanical power or appliance is used in manufacturing goods or packing them for transit, or in generating electricity, water power, or any other power; 60 Vic. No. 37, s. 2. No. 28, 1909, s. 2 (d).

(d) any bakehouse, *Ibid.* s. 2 (e).
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. 60 Vic. No. 37, s. 2.

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.

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

“Mechanical power” means power generated by water, steam, gas, oil, electricity, or any power other than manual power. No. 28, 1909, s. 2 (f).

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

“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. 60 Vic. No. 37, s. 2.
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No. 28, 1909, s. 2 (g).

For the purposes of any structural alteration or building additions required by this Part of this Act to be made to a factory or shop, the Minister may, by notice in the form prescribed, notify the owner of the factory or shop, or the person receiving the rent for the same, whether on his own account or on account of any other person, that he will regard him for such special purposes as the occupier of the same; and thereafter the said owner or person shall, for the said purposes, be deemed to be the occupier of the factory or shop.

60 Vic. No. 37, s. 2.

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

Ibid.

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

Ibid.

“Shopkeeper” means the occupier of a shop.

Act to apply only to declared districts.

Ibid. s. 3.

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

Factories may be exempted.

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

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

Appointment of inspectors.

Ibid. s. 4.

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

Registration of factories.

Ibid. s. 5.

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

Ibid. s. 6.

No. 28, 1909, s. 3.

(2) Every person in occupation of, or about to occupy, any premises which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall, not less than seven days before it is so used or again used as a factory, forward to the inspector of the district, or such other person as the Governor may appoint, a written notice containing such particulars

as

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as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice may register the premises and issue a certificate of registration to the person giving such notice.

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

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

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

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

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

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

Appeal to Minister.

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

Determination of appeal.

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

Order by Minister on appeal.

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

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

9. Every inspector shall have power—

- (1) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, or any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;
- (2) to take with him in either case an officer of health or inspector of nuisances, or any person whom he may think qualified to act as an interpreter; or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;
- (3) to require the production of the certificate of registration of any factory, or any book, notice, record, list, or document which is by this Part of this Act, or the regulations hereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;
- (4) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Part of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;
- (5) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Part of this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined:

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

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

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

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

11.

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

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

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.

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

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

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

DIVISION 2.—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 twenty-one years of age, and such other particulars as may from time to time be prescribed.

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

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

A 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. 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.

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

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

Record of outside work.
Ibid. s. 14.

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

(2)

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

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

Occupier for purposes of this section.

60 Vic. No. 37, s. 15.

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

Inspector not to divulge contents of records.

Ibid. s. 16.

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

Annual report.

Ibid. s. 17.

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

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

Factories and shops to be kept clean and well ventilated.

Ibid. s. 18.

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

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

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

21.

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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. 60 Vic. No. 37, s. 19.

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

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 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. Ibid. s. 20.

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 maltings and breweries; or to cheese and sugar-refining factories, or to sugar-mills or shearing sheds.

Exemptions.

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

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

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

(2)

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

- (2) no earth or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse :
- (3) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet ;
- (4) no drain-pipe for carrying off fœcal or sewage matter shall have an opening within the bakehouse.

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.
60 Vic. No. 37, s. 22.

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

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

Ventilation, &c., in
certain cases.
Ibid. s. 23.

25. If it appear to the inspector that—

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

Sitting
accommodation for
females.
Ibid. s. 24.
No. 28, 1909, s. 7.

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

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

27.

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

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

28. Every occupier of a factory or shop who causes or permits wearing apparel to be made, cleaned, or repaired in, or issues any materials from, any building, whether a factory or not, in which any person is suffering from a disease declared by or under any law relating to public health to be an infectious disease, shall be liable to a penalty not exceeding twenty pounds, unless he proves that he was not aware of the existence of the disease in the building and could not reasonably have been expected to become aware of it.

Avoidance of infection.
Ibid. s. 9.

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

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

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

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

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

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

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

32.

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

60 Vic. No. 37, s. 27.

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

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

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

Dangerous
machinery.

Ibid. s. 28.

No. 28, 1909, s. 10.

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

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

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

Safeguards from
machinery to be
provided.

60 Vic. No. 37, s. 29.

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

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

(3)

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

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

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

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

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

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

Unsafe or dangerous elevator or lift.

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

Restriction on
employment of
females and males
under certain ages.
60 Vic. No. 37, s. 32.

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

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 Part of this Act.

Accidents in
factories.
Ibid. s. 33.

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

- (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.
Ibid. s. 34.
No. 28, 1909, s. 12.

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

Extinguishing fire.

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

(3)

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

Means of escape from fire.
No. 28, 1909,
s. 12.

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

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

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

No child to be employed.
60 Vic. No. 37, s. 35.

41. The Minister may, by order, prohibit the employment in any factory or class of factory, at or in connection with any machinery described in such order as dangerous, of males under the age of sixteen years or of females in any work in which he considers it undesirable that they should be employed.

Employment of women and young persons may be prohibited in certain cases.
No. 28, 1909, s. 13.

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

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

Interval for meals in certain cases.
60 Vic. No. 37, s. 36.

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

Hours of employment may be extended under certain conditions.

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.

Ibid. s. 37.
No. 29, 1908, s. 7.
No. 28, 1909, s. 14.

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

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

Notice of overtime
working.
No. 28, 1909, s. 14.

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

Record of overtime.
Ibid.

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

Working must be to
meet exigencies of
trade.
Ibid.

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

Occupier debarred
from using proviso.
Ibid.

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

Penalty.
Ibid.

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

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

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

Certificate of fitness.
Ibid. s. 39.

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

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

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in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

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

- (a) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the registration of births of the birth of the person (and such certificate of birth shall be given by the registrar without fee); or
- (b) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

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

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

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

Limitation of
employment for
young persons.
60 Vic. No. 37, s. 40.
No. 28, 1909, s. 15.

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

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

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

Where person
under sixteen
incapacitated
for working
daily.
60 Vic. No. 37, s. 41.

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Female not to be employed for four weeks after confinement.
60 Vic. No. 37, s. 42.

Hours of employment in Chinese and certain other factories.
No. 28, 1909, s. 16.

Penalty.

Evidence.

Suspension of operation of section.

Limitation of hours of work in certain cases.
60 Vic. No. 37, s. 43.

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

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

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

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

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

(b) that during such time any member of the police force or inspector was refused or could not gain immediate admission to such factory,

shall be proof that the provisions of this section have been contravened by the defendant.

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

DIVISION 6.—*Shops.*

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

(2)

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

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

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

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

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

51. The Governor may, subject to the provisions of this Part of this Act, make regulations under which males under sixteen years of age and females under eighteen years of age may be employed in any shops of the classes included in Schedule Three to this Act. Governor may make regulations. 60 Vic. No. 37, s. 44.

DIVISION 7.—*Miscellaneous.*

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

(2) In a prosecution for any such breach or contravention, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature. No. 38, 1909, s. 17.

53. No occupier of a factory or shop shall contract with any employee against any liability under this Part of this Act. Occupier not to contract with employees against liability. 60 Vic. No. 37, s. 46.

54. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. Recovery of penalties. Ibid. s. 47.

55. No. 27, 1902, s. 82.

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Service of order,
notice, or summons.

60 Vic. No. 37, s. 48.

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

Ibid. s. 49.

Penalty for
employing a person
contrary to Act.

Ibid. s. 50.

Parents liable to
penalty in certain
cases.

Ibid. s. 51.

Proof of age of
employees.

Ibid. s. 52.

Penalty for forging
certificate and false
declaration.

Ibid. s. 53.

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

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

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

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

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

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

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

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

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

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

Governor to have power to make regulations.

Ibid. s. 55.

No. 28, 1909, s. 18.

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

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

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

PART III.

MINIMUM WAGE, OVERTIME, AND TEA-MONEY.

63. In this Part of this Act,—

“Employer” means—

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

Definitions.

No. 29, 1908, s. 2.

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

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

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

“**Workman**” means—

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

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

64. (1) A workman works overtime within the meaning of this Part of this Act when he works more than forty-eight hours in any week or after six o'clock in the evening on any working day. Definition of overtime.
No. 29, 1908, s. 3.

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

Minimum wage.

65. No workman or shop-assistant shall be employed unless in the receipt of a weekly wage of at least four shillings, irrespective of any amount earned as overtime. Minimum wage.
Ibid. s. 4.

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

66. Whosoever, either directly or indirectly, or by any pretence or device, requires or permits any person to pay or give, or receives from any person any consideration, premium, or bonus for the engaging or employing by him of any female in preparing, working at, dealing with, or manufacturing articles of clothing or wearing apparel for trade or sale shall be liable on conviction to a penalty not exceeding ten pounds; and the person who has paid or given such consideration, premium, or bonus may recover the same in any court of competent jurisdiction from the person who received the same. Premium or bonus in certain occupations.
Ibid. s. 5.

Overtime and tea-money.

67. (1) Where a workman or shop-assistant, being a male under sixteen years of age or a female, works overtime, his employer shall, unless exempted under this section, pay such workman or shop-assistant not less than threepence for every hour or portion of an hour of the overtime worked. Minimum overtime pay.
Ibid. s. 6. Such

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

Payment for
overtime.

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

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

Penalty.

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

Tea-money.
No. 29, 1908, s. 8.

68. Where any workman or shop-assistant, being a male under sixteen years of age or a female, is required by his employer to work overtime on any day, the employer shall on such day pay such workman or shop-assistant a sum of not less than sixpence as tea-money, and if he fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds.

Supplemental.

Records to be kept
by employers.
Ibid. s. 9.

69. (1) Every employer shall—

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

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

Powers of inspectors
under this Act.
Ibid. s. 10.

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

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

Obstruction of
inspector.

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

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

71. The Governor may make regulations for carrying out the provisions of this Part of this Act, and prescribing the forms to be used in its administration, and may in such regulations impose any penalty not exceeding ten pounds for any breach of the same. Regulations. No. 29, 1908, s. 11.

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

72. Contraventions or breaches of this Part of this Act, or of the regulations made hereunder, shall be reported to the Minister by inspectors, and no proceedings in respect thereof shall be instituted without the authority of the Minister. Report of contravention and breaches, and proceedings in respect thereof. Ibid. s. 12.

73. The penalty for any such contravention or breach may be recovered before a stipendiary or police magistrate, or any two justices of the peace in petty sessions: Provided that proceedings for recovering any such penalty must be commenced within three months after such contravention or breach. Recovery of penalties. Ibid. s. 13.

Savings.

74. This part of this Act shall not apply where all the persons employed as workmen and shop-assistants are members of the employer's family, related in the first or second degree by blood or first degree by marriage to the employer. Savings. Ibid. s. 14.

SCHEDULES.

SCHEDULE ONE.

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

SCHEDULE

Factories and Shops (No. 2).

SCHEDULE TWO.

Factories in which the employment of persons is restricted.

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

SCHEDULE THREE.

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

REGULATIONS.

[Published as Supplement to Government Gazette No. 77 of 14th May, 1913.]

Department of Labour and Industry,
48 Young-street,
Sydney, 29th April, 1913.

FACTORIES AND SHOPS ACT, No. 39, 1912.

HIS Excellency the Governor, with the advice of the Executive Council, has been pleased to make the following Regulations under the Factories and Shops Act, No. 39, 1912, repealing all Regulations made prior thereto, prescribing the forms of notices to be given and returns and records to be made, and the particulars to be set forth therein, and generally for carrying into effect the provisions of the aforesaid Acts.

By His Excellency's Command,

CAMPBELL CARMICHAEL,
Minister for Labour and Industry.

REGULATIONS.

FACTORIES AND SHOPS.

1. All regulations heretofore made under the Factories and Shops Act of 1896 are hereby repealed.
2. In these regulations the terms used shall, unless the context otherwise requires, have the same meanings as are respectively assigned to them by the Factories and Shops Act of 1912, hereinafter referred to as "the Act."

Air Space and Ventilation.

3. (1) Every factory or shop, and every room therein, shall contain not less than four hundred (400) cubic feet of space for each person employed therein.

In the calculation of cubic space the maximum height taken shall be 14 feet.

When the ceiling of any workroom is not more than 8 feet in height, such workroom shall **not**, unless expressly authorised by the Minister, be registered as a factory or included in a registered factory.

The Minister may exempt any factory or shop in whole or in part from the above provisions.

- (2) Where any employees are, when at work, grouped together in a room in a factory or shop, and, in the opinion of an Inspector, such grouping is so close as to be dangerous to their health, he may require the occupier to make a rearrangement of such grouping so as, in his opinion, to remove such danger.

4. Every factory or shop, and every room therein, shall, when required by the Inspector, be provided with means of ventilation by openings for the inlet and outlet of air in the proportion of not less than 12 square inches of inlet openings and 12 square inches of outlet openings, irrespective of door or window openings, for each person employed in such factory, shop, or room, such space to be calculated exclusive of all bars, ornamentation, or other obstruction thereto.

The provisions of this regulation shall not, unless considered necessary by an Inspector, apply to a factory, shop, or room in which there are a fireplace with chimney and a window made to open, and in which not more than four persons are employed.

5. Except in cases where carbonic acid gas is generated in a pure state for manufacturing purposes, when special permission to vary to a named extent must be obtained, the air anywhere within a factory must not contain more than eight parts of carbonic acid gas (CO₂) per 10,000 in excess of the air outside in the district during daylight. During darkness when artificial light, other than electric light, is required, this proportion may be increased up to 16 volumes in 10,000 in excess of the air outside.

REGULATIONS

6. In every factory the means of ventilation, warming and cooling, to be provided and maintained, shall be such as to keep the humidity and temperature of the air during working hours within the following proportions of temperature in relation to moisture, viz. :—

Dry bulb thermometer showing air temperature in degrees Fahrenheit.			Corresponding wet bulb thermometer showing humidity in air.		
			Minimum Fahrenheit.		Maximum Fahrenheit.
40 degrees	...	...	35 degrees	...	37 degrees.
50 "	...	...	44 "	...	47 "
60 "	...	...	53 "	...	55 "
65 "	...	...	60 "	...	61 "
70 "	...	...	63 "	...	68 "
72 "	...	...	64 "	...	69 "
75 "	...	...	65 "	...	70 "
80 "	...	...	67 "	...	73 "
85 "	...	...	68 "	...	73½ "
90 "	...	...	69½ "	...	74 "
95 "	...	...	71 "	...	75 "
100 "	...	...	73 "	...	76 "
105 "	...	...	74 "	...	77½ "
110 "	...	...	75 "	...	78½ "
115 "	...	...	76½ "	...	80 "
120 "	...	...	77½ "	...	81 "

The relative maximum temperatures of the wet bulb thermometer must never be exceeded within the factory or shop except when the humidity in the fresh open air surrounding the factory or shop is so excessive that it shows an increase in those relative temperatures. On such occasions the wet bulb temperature within the factory may be increased in the same proportion as that shown by the open air. If for any special manufacturing process or storage purpose any occupier desires the air in his factory workshop or shop to be saturated with moisture beyond the proportions shown by the relative temperatures above, he must make written application to the Minister for special leave to do so, specifying the conditions as to temperature and moisture he desires. Provided that the Chief Government Medical Officer certifies that such conditions are not absolutely dangerous to health, the Minister may grant permission to vary the temperatures of the wet bulb in such special case to the extent to which the said Medical Officer certifies it is safe to do so. If an Inspector has reason to believe that the provisions of this regulation are not being complied with, he may direct the occupier to provide dry and wet bulb thermometers, and to place and keep them in good working order in such position as he may indicate.

7. (a) Every heating appliance in any factory, whether used for warming for the persons there engaged, or used in a manufacturing process, shall be provided with a flue sufficient to carry off to the open air all the products of combustion. If the cross-section of the flue is circular, its internal diameter shall be not less than 4 inches; if the cross-section is of any other shape, the flue shall be equally efficient for the purpose of carrying off the products of combustion. These flues must be provided with hoods sufficiently large, and so placed as to collect all products of combustion into the flues, and be of material, design and in position as approved or directed by the Inspector.

(b) Where gas burners are used for heating purposes they must be maintained in good order, and be of such nature and so used that the poisonous gas (carbonic oxide) arising from imperfect combustion shall not be produced.

(c) Where it appears to an Inspector that such appliance is in such position as to overheat any room in which persons are employed, he may order a partition or screen to be erected, or such other means to be adopted as he considers necessary to reduce such overheating, or to effectually separate such appliance from any part of the factory in which persons are employed.

8. Where a producer gas or a water gas apparatus is in use, in connection with a factory or shop, for the purpose of generating gas for any power or heating purpose, such apparatus must be so situated and the place where it stands so isolated and ventilated that leakages of gas from such apparatus cannot find access into any portion of the factory or shop, where any person is employed. Such apparatus should be, if possible, in a detached building, but if that is impossible special sanction for its use must be obtained by the occupier from the Minister, and such sanction will not be given till it is shown to the satisfaction of

the Inspector that the place where such apparatus is situated has had its walls, ceiling, and floor made as nearly as possible gas-tight, and is provided with sufficient openings to the outer air to thoroughly ventilate the place at all times by perflation, or by equivalent mechanical means.

Temperatures.

9. An Inspector may require that means be taken by the occupier of any factory or shop to prevent the temperature (as shown by the dry bulb thermometer) within any portion of such factory or shop rising above 77° Fah. when the shade temperature outside does not exceed 72° Fah., and when the shade temperature outside exceeds 72° Fah., to prevent the temperature within the factory or shop exceeding the outside shade temperature by more than 5° Fah.

10. In any factory or shop, heating appliances shall, when so required by an Inspector, be provided sufficient to warm the room in which any persons are employed to a temperature of not less than 65° Fah. in places where manual labour is being carried on, and of not less than 72° Fah. where sedentary work is being done.

For the purposes of keeping down the temperature, the Inspector may require:—

- (a) That the walls, or portion thereof, shall be lined with a material of the non-conducting efficiency of wood of $\frac{3}{8}$ inch thickness.
- (b) That the ceilings under a roof shall be so fixed as to permit of a current of air circulating freely from the room, and between such ceilings and the roof covering, out to the open air.
- (c) That the walls or roof of any factory or shop, or portions thereof, shall be externally coated; such external coating shall consist of not less than two coats of refrigerating paint, or other coating having similar heat-resisting action.

11. Where in any factory or shop or in any portion thereof in which any person is employed, any process is carried on which involves the giving off of steam, or dust, or metal, or mineral particles from polishing or grinding, or noxious gases or fumes, fans with efficient hoods and ducts or other proper construction shall be provided, maintained and used for efficiently carrying off to the satisfaction of the Inspector the steam or other matters to the external air from the point at which they are given off, except in the case of steam used for warming or humidifying the air in cases where special permission has been given under Regulation 5.

Cleaning.

12. (a) The floors and windows of every factory shall, when so ordered by an Inspector, be washed with hot water and soap once at least every four weeks, provided that the occupier of any factory may appeal from such order to the Minister, whose decision shall be final.

(b) The seats and floor of every closet, lavatory, and dressing room used by the employees in any factory or shop shall be thoroughly scrubbed with water and soap once at least every week.

(c) Each urinal and the floor adjacent to such urinal, and all sinks and washbasins in any factory or shop, shall be thoroughly cleansed with water every day.

In all the above washings and cleanings the water used must have a disinfectant equal in qualities and efficiency to "Kerol" (Quibell Brothers' disinfectant), or "Cyllin" (Jeye's disinfectant), mixed with it in proportion of one tablespoonful per gallon of water; or, if preferred, "Kerol" or "Cyllin" soap, or an equally efficient disinfectant soap may be used where washing is required.

Adequate Lighting.

13. Every part of a factory in which persons are employed, or any passages or stairways or portions of a factory which may at any time be used by an employee, must have light equal to 10 candle metres, that is, light equal to that given out by an ordinary stearize or paraffine candle of 6 to the lb. at a distance of 12 inches from the flame. When such lighting is found by test to be below that standard, the Inspector may require the occupier to make such provision (preferably where possible by window openings or otherwise) to provide the natural or artificial lighting necessary to bring the lighting up to the standard named above.

Dressing Rooms.

14. In any factory where, in accordance with the provisions of section 27 of the Act, the occupier has been requested to provide a suitable dressing room, such dressing room shall have a floor area of not less than 64 square feet; but in any factory where the number of female employees exceeds twenty, the dimensions of such dressing room shall be determined by the Inspector. Such dressing rooms shall be provided with hat and cloak hooks, and, if required by the Inspector, a locker or pigeon hole of at least 1 cubic foot, for each employee.

REGULATIONS.

Closet Accommodation.

15. Every factory or shop shall be provided with proper closet accommodation, and in respect thereof the following rules shall be observed :—

- (a) Where the premises are situated within the boundaries of the City of Sydney, such accommodation shall be in the proportion of one seat to every fifteen persons of each sex, and where the premises are outside the boundaries of the City of Sydney, one seat to every twenty persons of each sex.
- (b) Where persons of both sexes who are not all members of the same family are employed, separate closet accommodation shall be provided for members of each sex : Provided that where the majority of those employed are of one sex, and not more than two are of the other sex, separate and distinct closet accommodation for the persons of different sexes shall not be required, if in the opinion of the Inspector the same is suitably provided in adjoining or adjacent premises.
- (c) The conveniences of each sex shall be so placed or so screened off that the interior shall not be visible, even when the door of any convenience is open, from any place where persons of the other sex have to work or pass.
- (d) If the conveniences of one sex adjoin those of the other sex, the partitions, if not constructed of brick, stone, or similar material, shall be lined on both sides in such manner and with such material as may be approved by an Inspector ; the approaches shall be separate, and such approaches shall be screened or partitioned off to the approval of the Inspector.
- (e) Urinals shall, when required by an Inspector, be provided in such proportion as he may by notice in writing require.
- (f) Every closet and urinal shall be so arranged and maintained as to be conveniently accessible to the persons employed at all times during their employment, and shall be in such a position as may be approved by the Inspector.
- (g) The floor of any sanitary convenience shall be of concrete or other impervious material approved by the Inspector.
- (h) The walls and ceilings of every closet shall be either hot-limewashed every three months or kept cleanly painted with enamel paint.
- (i) In any closet where more than one seat is provided such seats shall be separated by an approved partition of at least 6 feet in height, and each compartment so formed shall, if required by an Inspector, be fitted with a door or hinged screen capable of being fastened on the inside.
- (j) Where closets are connected with the Metropolitan or other approved system of sewerage, and are situated within any building :—
 - (1) Such closets shall be effectively separated from any room in which any person is employed by walls, and such walls shall be erected of such material and in such manner as may be approved by an Inspector.
 - (2) Such closets shall be in such position that one at least of its external walls shall be capable of being lighted and ventilated direct to the outer air. Such means of ventilation shall consist of—a louvred opening or a window placed towards the upper part of the wall, and capable of being opened, of dimensions of not less than 2 feet by 1 foot, exclusive of frame. There shall also be provided not less than one air brick, or grating, or other opening, of at least 24 square inches, free of all bars, ornamentation, or other obstruction, and placed near the floor.
 - (3) Such closets shall be efficiently lighted when in use at night.
 - (4) The doors of such closets shall be fitted with a spring, or other appliance, so as to make them self-closing, and such doors shall be kept closed when not in use.
 - (5) The roof of such closets shall, if required by an Inspector, be closed in separately from the ceiling of any room or roof of the building.
- (k) Where the closets are not connected with the Metropolitan or other approved system of sewerage, approved double pail or earth closets may be fitted :—
 - (1) Such closets shall be situated outside and apart from any building in which any person is employed, and shall not communicate with any such building except through the open air or an intervening ventilated space.
 - (2) Such closets shall be provided with a door capable of being fastened on the inside.
 - (3) Such closets shall be constructed with weather-proof walls and roof.
 - (4) Such closets shall have an internal measurement of not less than 7 feet in height, nor less than 3 ft. 6 in. in width, nor less than 4 ft. 6 in. in length.

Lavatory Accommodation.

16. In every factory or shop lavatory or wash basins shall be provided in the proportion of one basin to every twenty persons of each sex, and where the total number of persons of either sex exceeds one hundred, the proportion shall be one to every twenty-five. Where the premises are connected with a water supply service, such service shall be laid on to the lavatory or wash basins, which shall be fitted with waste

pipes and drains to carry off the slop-water. Where the premises are not connected with a water supply service, water shall be provided at a convenient distance from the lavatory or wash basins, with proper utensils for carrying it, also a suitable place where the slop-water may be emptied without causing a nuisance. The position, fitting, drainage, and utensils shall in all cases be to the satisfaction of the Inspector.

Drinking-water.

17. In every factory or shop a sufficient supply of wholesome cold drinking-water shall be provided for the free use of the persons employed therein. Such supply shall be in such position as to be easily accessible to all the persons employed in the factory or shop. A drinking vessel shall be attached to each such supply. Where the operations are such as may lead to contamination of the water, or where the quality of the water available requires it, the Inspector may require filters to be provided by the occupier, and regularly cleaned and used; such filters to be of the "Pasteur" or "Abbot" type, or others which have been proved to be of equal efficiency.

Mode of conducting Arbitrations.

18. Any occupier who has been served with notice in the form of the Schedule hereto to make structural alterations in his factory, or to fence machinery, and who has, within the time prescribed in Section 34, served on the Minister or Inspector a requisition to refer to arbitration the question whether or not it is necessary or practicable to make the structural alterations or to fence the machinery, referred to in the notice, shall under his hand appoint an arbitrator, and give notice in writing to the Minister or Inspector, as the case may be, of such appointment not later than within six days after he shall have served such requisition to refer upon the Minister or Inspector.

SCHEDULE.

NOTICES UNDER SECTIONS 34 AND 39 (1) OF THE FACTORIES AND SHOPS ACT OF 1912.

I hereby give you notice that you are required to [here describe in general terms the machinery required to be fenced, or the structural alterations to be made, and the mode in which the same should be fenced or altered], in your factory, street, district, as provided by Section 34 (or 39 as the case may be) of the Factories and Shops Act, 1912.

Minister for Labour and Industry (or Inspector).

To M.

NOTE.—If you desire to refer this matter to arbitration, you must within seven days of the receipt of this notice serve upon me a written requisition to refer the matter to arbitration and must proceed to such arbitration in accordance with the regulations in that behalf. In default of your so doing, you will be liable to the penalties provided in the said Act unless you make the required structural alterations (or securely fence the said machinery without delay).

The Minister shall, within six days after he, or the Inspector (as the case may be), shall have received written notice of the name of the arbitrator so appointed by the occupier, appoint under his hand an arbitrator, and give notice of such appointment to the occupier.

The arbitrators so appointed shall, within fourteen days after the appointment of the second arbitrator, and before proceeding to arbitration, appoint under their hands an umpire. If such umpire is not so appointed the Minister may either extend the time for such appointment or himself appoint an umpire.

The arbitrators and umpire shall, before making an award, make a personal inspection of the building or machinery in question, and the approaches and surroundings thereof, and shall, if they or he deem it necessary, but not otherwise, take the evidence of experts upon the question of the necessity or the practicability of making such structural alterations or of fencing the machinery alleged in the notice to be dangerous, or of any possible modifications of the requirements in the notice.

The occupier and the Minister or Inspector may attend in person or by their agents before the arbitrators or umpire, and may themselves give evidence or adduce such evidence as they may think advisable.

The arbitrators or umpire may, after notice of the meeting, proceed to an award in the absence of the parties or either of them.

No submission other than the appointment of arbitrators shall be necessary, and no particular form of award shall be required, but the form of appointment of arbitrators, umpire, and award hereinafter provided may be used and shall be sufficient.

The award of the arbitrators or umpire (as the case may be) shall be made within twenty-one days next after the appointment of the umpire.

The following forms may be used in arbitration:—

Appointment of Arbitrator.

I, A.B., or we, A.B.C.D., &c., occupier of a factory or work-room situate at, &c. [here describe site of factory], do hereby appoint Y.Z. to act as arbitrator in the matter of the notice of the Minister to make structural alterations (or of the Inspector to fence machinery).

I, E.F., Minister for Labour and Industry, do hereby appoint W.X. to act as arbitrator in the matter of the notice of the Minister to make structural alterations (or of the Inspector to fence machinery), served upon A.B., &c., occupier, carrying on a factory or work-room at [here describe site of factory, &c.]

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Appointment of Umpire.

We, *W.X.* and *Y.Z.*, the arbitrators appointed in the matter of the notice of the Minister to make structural alterations (or of the Inspector to fence machinery) at the factory or work-room of [*here insert name of occupier*] at [*here insert site of factory or work-room*], hereby duly appoint *E.F.* to act as umpire in the said arbitration.

Award.

Arbitration in the matter of the notice of the Minister to make structural alterations (or of the Inspector to fence machinery) at the factory of [*here insert name of occupier*], at [*here insert site of factory*] in the district, under Section 34 [or 39 (1) as the case may be] of the *Factories and Shops Act* of 1912.

We, *W.X.* and *Y.Z.*, arbitrators (or *I, E.F.*, the umpire) appointed in the above arbitration, having duly proceeded to the final determination of the matter referred, hereby decide by this award, made under the *Factories and Shops Act*, 1912, that [*here state according to the finding of the arbitrators or umpire either that it is necessary and practicable to make the structural alterations, or fence the machinery as required, or state some modification of the notice by which the structural alterations or fencing of machinery would, if the modification were adopted, be practicable*].

Risk of Accident.

19. For the better prevention of accidents the following rules shall be observed :—

(1) In every factory where mechanical power is used the occupier shall when so required by an Inspector provide a loose pulley or pulleys to any machine or shafting driven by such power.

Such loose pulley or pulleys will not be considered necessary—

(a) For the starting of any engine, if such engine is equipped with a self-starting apparatus, or is directly coupled or is so constructed as to be in the opinion of the Inspector reasonably safe for the purpose of starting.

(b) Where the load is connected with the driving pulley by a clutch.

(2) In every factory where mechanical power is used the occupier when so directed by an Inspector shall provide a belt shifter or other safe mechanical contrivance approved by the Inspector for the purpose of throwing belts or pulleys on or off.

(3) Every occupier of a factory when so directed by an Inspector shall provide for the service of any shafting moved by mechanical power, and situated more than 8 feet above the floor level—

(a) Stagings or platforms, or gangways of such design and construction, and in such position as may be approved by an Inspector.

(b) Ladders of such design and construction as may be approved by an Inspector.

(c) Belt-hangers for the purpose of holding any belt when not in use clear of contact with any running machinery or mill-gearing. Any employee throwing off a belt from any machine or mill-gearing shall, if a belt-hanger is provided, put such belt on such belt-hanger.

(4) An occupier of a factory or any person in control of any boy under 16 years of age or of any female shall, when any mill-gearing is in motion by mechanical power, not permit or allow such person to—

(a) Oil or grease any portion of such mill-gearing.

(b) Put on or put off or adjust or tighten or lace any belt or belting of such mill-gearing, or attempt so to do.

(c) Go on or remain on any overhead staging erected for the purpose of serving any such mill-gearing.

(5) An occupier of a factory or any person in control of any boy under 18 years of age, or any female, shall not permit or allow such person to—

(a) Be in charge of any engine or boiler.

(b) Attend to any engine or boiler, unless the Inspector is satisfied that such act done by such person is under the direct supervision of a competent person.

(6) In all breweries and aerated water factories the occupier shall—

(a) Provide all bottlers, corkers, wirers, sighters, and labellers with such masks or veils, or face-guards, and such gauntlets, or hand or arm guards, as may be approved by the Inspector.

(b) Cause all machines for bottling to be so constructed and so placed or fenced as to prevent as far as possible, during the operation of filling or corking, a fragment of bursting bottle from striking any employee.

And all employees while engaged upon bottling or other operations (upon which explosions or breakages are likely to happen) shall continually wear such face or hand or arm guards as are provided.

(7) In any factory where machinery is moved by mechanical power, no female shall be employed at or near, or about, such machinery, or in any room where she may have occasion to pass such machinery, whilst her hair is not covered or closely fastened to her head, or whilst she is wearing flowing hair, or neck ribbons or laces, or such loose articles of dress.

(8) All emery wheels shall be fenced or guarded in such manner as, taking into consideration the circumstances of each case, may be approved by an Inspector.

No emery wheel shall be run at a higher speed than is indicated on such wheel by the maker as the limit of safety.

No emery wheel shall be run before any door or other entrance.

(9) All steam pipes, or pipes used for heating purposes, shall either be properly insulated or guarded, or in such position that an employee in the ordinary course of employment would not come in ready contact with them.

(10) Proper pots or ladles of such construction and design as to ensure the safe transit of the substance shall be provided for the conveyance, carrying, or handling of molten metal, or hot or any dangerous substances.

(11) All boilers, vats, or similar appliances designed to revolve or tilt shall be fitted with mechanical catches or other safe appliance to regulate their position.

(12) If any machine worked by manual power is of such design and construction that its motion is materially assisted by the kinetic energy or momentum accumulated in its moving parts, any cog-wheel, fly-wheel, or other moving part of such machine shall be fenced or guarded, if so directed by an Inspector.

(13) In every factory in which mechanical power is used, all set screws, pins, keys, coupling bolts, and ends of spindles, if moved by such power, shall, when so directed by the Inspector, be fenced or guarded, or countersunk, or cut off flush with the adjoining parts of the machinery or mill-gearing, or protected in such manner as may be approved by the Inspector.

(14) Where in any factory any fan moved by mechanical power is, in the opinion of the Inspector, in such position as to be likely to cause bodily injury to any employee, such fan shall be protected with woven wire, or fenced, or guarded in such manner as may be approved by the Inspector.

(15) In all factories where machinery is moved by mechanical power, all main traffic ways shall, when required by the Inspector, be not less than 4 feet wide, and all such traffic ways must be kept clear of materials, stock, or other obstructions.

(16) All passage ways between machines or giving access to machines shall be not less than 2 feet wide, unless in such passage ways all moving parts of the machinery or mill-gearing are securely fenced or guarded.

(17) If in any factory any stairway or any portion thereof is, in the opinion of the Inspector, in such condition or of such construction as to be dangerous for use, he may require such stairway or portion thereof to be reconstructed or repaired in such manner as may be approved by him.

(18) To minimise the risk of accident in case of fire—

- (a) To every exit to a fire escape there shall be a clear approach or passage way of not less than 3 feet from any part of a workroom in which persons are employed.
- (b) In any doorway through which any person in any workroom would have to pass to reach the exit to the escape or ordinary means of exit, the door shall not be locked, bolted, or barred whilst any person is employed in the factory.
- (c) On every floor of a factory in such places and in such manner as the Inspector may direct, the occupier shall cause to be affixed or painted a notice for the purpose of informing any person in the factory the means of escape provided, and the direction to be taken to reach such means of escape.
- (d) No person shall place or permit to be placed—
 - (a) In any passage way or approach leading to an escape
 - (b) or any part of the escape,
 - any goods, packages, fruit peelings, waste paper, sweepings, or any article or matter which may be likely to obstruct, hinder, impede, or prevent the safe using of the escape.
- (e) All gas or flare lights used for lighting purposes in a factory shall be protected in such manner as to prevent any inflammable material coming into contact with them, and no such light shall be fixed within two (2) feet of any woodwork, unless such woodwork is protected by a metal sheet in approved position.
- (f) All rubbish, sweepings, and clippings shall be deposited in covered metal cases.
- (g) Oily waste or rag shall be deposited in separate metal cases and shall not be mixed with paper or clean clippings.
- (h) Sawdust shall not be used to catch oil drippings.
- (i) Radiators and heated pipes shall be kept clear from contact with any woodwork.

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- (j) Inflammable and combustible materials shall not be kept near any radiator or heated pipe.
- (k) Gas rings or heaters shall be connected to the main gas pipe with metal or approved piping or tubing.
- (l) Where gas rings or heaters are used they shall be set on slate, brick, concrete, or other approved material in such position as may be approved by an Inspector.
- (m) All fencing, safeguards, or other precautions required by this regulation shall be maintained in an efficient state.

20. All vats, pans, tanks, stairwells, and openings in floors and walls shall be securely fenced, or otherwise supplied with efficient safeguards, and all stairwells and steps shall be provided with one or more handrails; such fencing, safeguards, handrails, or means of protection to be approved by the Inspector.

All such fencing, safeguards, and handrails shall be maintained in an efficient state.

Electrical Switchboards and Generators.

21. (a) There shall be an unobstructed passage way in front of every switchboard of not less than 3 feet in width. The passage way, if any, behind the switchboard, shall not be of less width than 3 feet clear of any electrical apparatus.

(b) No conductor or resistance frame shall cross any passage way at the back of the switchboard, except at a height of not less than 6 feet 6 inches above the floor.

(c) The passage way at the back of the switchboard shall be unobstructed smoothly floored, accessible from each end, and shall be provided with open wire-work or other approved doors.

Such doors shall each be provided with a lock, the key of which shall be in the care of the person in charge of the plant, and such doors shall be kept locked when the back of the switchboard is not in use.

(d) When an electric motor is fixed to a wall or erected overhead on bracket or fitting, such bracket or fitting shall be so fixed as to ensure it carrying the motor safely at all loads.

(e) The switch of any motor shall be in such position as approved by an Inspector.

(f) Every conductor which is intended to carry current, with the exception of the conductors forming part of the main switchboard, shall be protected in such manner as to prevent accidental contact with them.

(g) Persons not having technical knowledge of electricity shall not be permitted to have access to any part of a main switchboard on which there are unprotected conductors.

(h) All metal forming part of or used for protecting switchboards, resistance frames, or motor starters and also the frames of generators and motors shall be efficiently connected to earth.

(i) All wires and other conductors not used or required shall be removed from the vicinity of wires and conductors in use.

Floors and Ceilings of Factories.

22. Where directed by the Inspector the materials of the flooring of the factories shall be of cement concrete, bricks or tiles laid in cement, asphalt, or other impervious materials, or wood, or such materials as may be approved by the Inspector as suitable for the requirements of the trade carried on in such factory.

23. Where directed by the Inspector the material of the ceilings of factories shall be of wood, plaster, bagasse, steel, or such other materials as may be approved by the Inspector.

Doors opening outwards and construction of same.

24. (1) The provisions of Section 39 (1) of the Act shall apply to—

(a) Shops used for the sale of drapery, millinery, and fancy goods in which the area of floor space on any floor exceeds 600 square feet.

(b) Shops other than those used for the sale of drapery, millinery, and fancy goods in which the area of floor space on any floor exceeds 1,000 square feet.

(2) No door of exit shall be hung so as to open immediately on to a flight of stairs, or steps, or to obstruct when open any exit of a shop.

No such door shall be fastened in any way except as to allow it to be readily opened from each side without a key during the whole time the shop is occupied by any person, except the caretaker or watchman.

Means of Extinguishing Fire.

25. Every factory and shop, when so required by the Inspector, shall be fitted with a 3-inch hydrant, hose, branch, and nozzle, inside the main entrance and at the top of each staircase, and be supplied with such number of buckets as the Inspector may determine and of such pattern as he may approve, to be kept (filled with water) at all times on each floor of such factory or shop; or, in lieu of fire buckets, effective chemical fire-extinguishers approved by the Chief Officer of the Fire Brigade.

REGULATIONS

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FORMS.

Form of Application to Register.

26. The written notice to register to be served on the Chief Inspector or Inspector by the occupier or intending occupier of a factory, in accordance with Sections 6 and 7 of the Act, may be in the following form, and may be left at his office or sent to him through the post:—
To the Chief Inspector, Department of Labour and Industry, Sydney.

(In the case of the Metropolitan District, or to the "Inspector of Factories for the District of _____," at his gazetted address in the case of country districts).

I [or We] hereby give you notice that I am [or we are] in occupation of [or I or we intend to occupy premises] as a factory within the meaning of the Factories and Shops Act, particulars of which are furnished herewith, and request that a Certificate of Registration be issued to me [or us].

The particulars are as follows:—

Premises are situated at
Built of
Roof of
Precautions against fire
Means of escape in case of fire
Number of closets for females
Number of closets for males
Number of washbasins for females
Number of washbasins for males
Urinal is provided for

The number of workrooms is _____, and the dimensions are as below:—

How Room is distinguished.	Number of Persons to Work in Room.	Height.		Length.		Breadth.		Number of Windows.	Number of Doors.	Number of Ventilators.	
		Feet.	Inches.	Feet.	Inches.	Feet.	Inches.			Inlet.	Outlet

Nature of work to be carried on, or articles to be manufactured
The mechanical power is _____ of _____ horse-power
Name of occupier or firm in full, for registration
Trading Name
The estimated number of persons to be employed is _____ males _____ females
Total of all employes
I [or We] declare the above particulars to be substantially true and correct in every respect.

Date

Occupier or firm.

Received
Permit issued
Registered
Remarks

Inspector's Report.

27. Not to be filled in by applicant for registration.

No. of floors to be occupied
(State which floor or floors.)

W.C. accommodation—Males, _____; Females, _____

Remarks

I recommend that

Inspector.

Owner to be regarded as Occupier.

28. The notice by the Minister regarding for special purposes the owner as the occupier of the premises, in accordance with Section 3 of the Act, definition of "occupier" may be in the following form:—

FACTORIES AND SHOPS ACT.

Owner to be regarded as occupier.

Date.

Take notice that for the purpose of certain structural alterations or building additions, as specified in the attached notice, you are hereby regarded as the occupier of the premises situate at _____

Minister for Labour and Industry.

REGULATIONS.

Permit to use Premises as a Factory.

29. The permit authorising the use of premises as a factory pending the carrying out of alterations or repairs, in accordance with the provisions of section 6 of the Act, may be in the following form :—

FACTORIES AND SHOPS ACT.

Permit to use Premises as a Factory.

This is to certify that permission is hereby given to _____ Date _____
 street as a factory till the _____ day of _____ to use premises situated at _____
 , 19 _____
 Chief Inspector of Factories.

Note.—This permit is issued to allow the premises to be used as a factory pending the carrying out of alterations or repairs as required by the Inspector.

Notice of Requirements.

30. The notice of requirements of an Inspector to be served on an occupier or applicant, in accordance with the provisions of Section 8 of the Act, may be in the following form :—

FACTORIES AND SHOPS ACT.

Notice of requirements.

Take notice that, in order to render the premises situate at _____ Date _____
 as a factory, you are required to _____ street, _____ fit for occupation
 Inspector.

Note.—If you are dissatisfied with the requirements of this notice, you may within seven days appeal to the Minister for Labour and Industry in writing in the form provided for by Regulation 31.

Appeal to the Minister re Requirements of Inspector.

31. The appeal to the Minister against the requirements of the Inspector in accordance with the requirements of section 8 of the Act and the consequent orders may be in the following forms :—

FACTORIES AND SHOPS ACT.

Appeal to the Minister.

To The Minister for Labour and Industry, Sydney. Date _____
 I _____ being (an occupier of) or (about to occupy) premises situate at _____ street
 do hereby appeal against the requirements of the Inspector as mentioned in his notice of _____
 I desire that the following amendment be made in such requirements _____
 Signed _____ Address _____

FACTORIES AND SHOPS ACT.

Order by the Minister.

Section 8.

On appeal of occupier or applicant.

Department of Labour and Industry.

Date _____

32. Whereas Inspector _____ has requested _____ to comply with certain requirements
 to fit premises situate at _____ street, _____ for occupation as a factory, and whereas
 the said _____ has, in accordance with the provisions of Section 8 of the Factories and Shops Act,
 appealed to me to make amendment in such requirements ; now, I, _____, Minister for Labour
 and Industry, being the Minister for the time being administering the said Act, hereby order _____

Minister.

FACTORIES AND SHOPS ACT.

Order by Minister.

Section 8 (5).

Forbidding use of Factory.

Department of Labour and Industry.

Date _____

33. Whereas Inspector _____ has reported to me that, in his opinion, no requirements that
 may be specified will, by reason of structural difficulties, sanitary defects, or otherwise, fit premises situate at _____
 street for use as a factory : Now, I _____ Minister for Labour and
 Industry, being Minister for the time being administering the said Act, having considered such report, hereby
 order _____

Minister.

REGULATIONS.

37

Certificate of Registration.

34. The certificate of registration to be issued, in accordance with the provisions of Section 6 of the Act, may be in the following form :—

FACTORIES AND SHOPS ACT.

Certificate of Registration.

Date—

THIS is to certify that the premises occupied by _____ at _____ street,
in which _____ persons are employed, have this day been registered under the Factories and Shops Act as a factory.

Chief Inspector of Factories.

Certificate of Appointment of Inspector.

35. The Certificate of Appointment of an Inspector to be produced on applying for admission to a factory or shop if required by the occupier, in accordance with the provisions of Section 12 of the Act, may be in the following form :—

FACTORIES AND SHOPS ACT.

Certificate of Appointment of Inspector. Section 12.

This is to certify that _____ has been appointed an Inspector under the Factories and Shops Act, and
that the said _____ is duly authorised to execute all the powers of an Inspector under the said Act.

Department of Labour and Industry, Sydney, 19

Minister for Labour and Industry.

Notice to be Affixed.

36. The notice to be affixed and maintained in some conspicuous place at or near the entrance of every factory, in accordance with section 14 of the Act, shall be in the following form :—

FACTORIES AND SHOPS ACT.

Time Sheet.

Department of Labour and Industry.

District.

Inspectors

Address

Usual working hours of factory.

For

For Adult Males.

Days.	From.	To.	Time allowed for meals.
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Saturday			

For Boys under 16 years of age, and all Females.

Days.	From.	To.	Time allowed for meals.
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Saturday			

NOTE.—All time worked beyond the hours shown for boys under 16 years of age and all females shall be recorded and paid for as overtime.

REGULATIONS.

Record of Employees in a Factory or Shop.

37. The record of the names of all employees and the ages of all persons under twenty-one years of age, employed in a factory or shop, and of other particulars, to be kept in accordance with the provisions of Section 14 of the Act, shall be in the following form, and such record or summary thereof, as the Minister may determine, shall be forwarded to the Chief Inspector or Inspector at such times as may be directed by him:—

RECORD OF EMPLOYEES IN A FACTORY OR SHOP.

Name of occupier or firm
Address
Nature of work carried on

NOTE.—When an employee leaves, name should be struck out of record.

Name of Person employed.	Age—Male.								Age—Female.									
	13 years.	14 years.	15 years.	16 years.	17 years.	18 years.	19 years.	20 years.	21 years & over.	13 years.	14 years.	15 years.	16 years.	17 years.	18 years.	19 years.	20 years.	21 years & over.
Total																		

I CERTIFY that the above record is a substantially true and correct account of the persons employed during _____ in
factory or shop situated at _____ and of the kind of work done by and wages
paid to such persons

Signature of Occupier.

Date

Record of Work done outside a Factory.

38. The record to be kept by the occupier of every factory, in accordance with the provisions of Section 16 of the Act, of the work done outside a factory, and the name and address of the person by whom the same is done, and the prices paid in each instance for the work, shall be in the following form:—

RECORD OF OUTSIDE WORK.

Name of occupier or firm
Address
Nature of work carried on

Name of Person employed.	Address of Employee.	Age—Male.										Age—Female.										Particular kind of work done by each Person.	Amount of weekly earnings.	
		13 years.	14 years.	15 years.	16 years.	17 years.	18 years.	19 years.	20 years.	21 years and over.		13 years.	14 years.	15 years.	16 years.	17 years.	18 years.	19 years.	20 years.	21 years and over.			Wages.	Piece-work.
Total																								

I certify that the above record is a substantially true and correct account of the persons employed in the business of _____, but outside the factory, their ages and sex, the rates of payment to them, and the places in which they were employed during _____ and of the kind of work done by such persons.

Date

Signature of Occupier.

Notice re Dining and Eating Room in a Factory or Shop.

39. The notice by the Minister forbidding an occupier to permit employees to take their meals in any workroom, or directing an occupier to provide a suitable room or place for the purpose of a dining or eating room, in accordance with the provisions of Section 24 of the Act, may be in the following form:—

Notice re Dining and Eating Room.

Department of Labour and Industry.
Date

To

In accordance with the provisions of Section 24 of the Factories and Shops Act, I hereby give you notice that in your
, situate at street

Minister for Labour and Industry.

Notice to Local Authority.

40. The notice to be given in writing to the local or other authority, in accordance with the provisions of Section 30 of the Act, may be in the following form:—

FACTORIES AND SHOPS ACT.

Department of Labour and Industry.

Date

Notice to Local or other Authority.

To

In accordance with the provisions of Section 30 of the Factories and Shops Act, you are hereby notified that, in premises occupied by
situate at
the following conditions exist

Chief Inspector of Factories.

Form of Order prohibiting use of Machine or Mill-gearing.

41. The form of order by the Minister, prohibiting the use of dangerous machines or mill-gearing, in accordance with the provisions of Section 35 of the Act, may be in the following form:—

Order Prohibiting Use of Machine or Mill-gearing.

Whereas Inspector
made complaint to me that a certain part of your machinery, to wit
is in such condition that it cannot be used without danger to life or limb:

having

Now I,
for Labour and Industry, being the Minister for the time being administering the Act, being satisfied that such
is in such condition, hereby
order that

Minister

Minister for Labour and Industry.

Notice of Accident.

42. The notice of accident to be forwarded by the Occupier, in accordance with the provisions of Section 38 of the Act, may be in the following form:—

Report of Accident.

Date

19 .

Inspector

* Department of Labour and Industry, 48 Young-street, Sydney.

I hereby give you notice of an accident, the particulars of which are:—

Name of injured person
Private residence
Where treated
Nature and extent of injury
Cause of accident

Notice of Overtime to be sent by the Occupier of a Factory.

43. The notice of having availed himself of the proviso to Section 43 to be given by the occupier of a factory, in accordance with the provisions of Section 43 of the Act, may be in the following form:—

Notice of Overtime.

Date

To _____, Department of Labour and Industry.

Notice is hereby given that overtime was worked in the factory occupied by
situate at

street
day of

on the

19 .

The number of males so employed, under 16 years of age, was

The number of females so employed was

The overtime worked was from

to

o'clock.

The facts on which rely that such working was *bona fide* for the purpose of meeting the exigencies of trade are as follows:—

(Signed)

REGULATIONS.

Record of Overtime.

44. The record of overtime to be kept by the occupier in accordance with Sections 43 and 69 of the Act shall be in the following form :—

Record of Overtime.

For the week beginning Monday

19 .

Males under 16 years and all Females.

Name of Employee.	Hours of Overtime worked.							Certificate.	Signature of Employee.
	Monday.	Tuesday.	Wednesday.	Thursday.	Friday.	Saturday.	Total for week.		
								Certified correct.	

45. A record of payment as tea-money under the provisions of this Act shall be kept by the employer in the following form :—

Record of Tea Money.

Name of employer.....
 Trade, &c.
 Address
 Date upon which overtime is worked,.....19 .

Amount.	Certificate.	Signature of Employee.
	I hereby certify that I have received on the date abovementioned the amount shown in the preceding column in payment as tea money. Do do ...	

Application for an Extension of Overtime.

46. The application to the Minister for permission to work additional overtime, the notice of his dissatisfaction, and the record made under his direction, in accordance with Section 43 of the Act, may be in the following forms :—

Application for an Extension of Overtime.

To the Chief Inspector, Department of Labour and Industry,—

I [or We] beg to request that you will recommend the Minister for Labour and Industry to grant me [or us] an extension of overtime, as follows :—

The reason for making this application is—

Yours obediently,

Name

Address {

Date

Notice of Minister's Dissatisfaction re Overtime.

Whereas on the _____ day of _____ 19____, overtime was worked on premises situate at _____ and occupied by _____, and whereas it having been reported to me that such working was not *bond-fide* for the purpose of meeting the exigencies of trade:

Now, I, _____, Minister for Labour and Industry, being the Minister for the time being administering the Act, hereby give you notice of my dissatisfaction in regard to such overtime.

Should you fail within one month from the date hereof to prove to my satisfaction that such working was *bond fide* for such purpose of meeting the exigencies of trade, I shall direct that a record be made that the working was not *bond fide* for such purpose.

Record by Minister re Overtime.

Whereas on the _____ day of _____ 19____, overtime was worked on premises situate at _____ and occupied by _____, and the said _____ having failed to prove to my satisfaction

that such overtime was worked *bond fide* for the purpose of meeting the exigencies of trade:

Now, I, _____, Minister for Labour and Industry, being the Minister for the time being administering the Act, direct that a record be made that such overtime was not worked *bond fide* for such purpose.

As witness my hand the _____ day of _____, A.D. 19____.

Minister for Labour and Industry.

Certificates of Fitness.

47. Certificates of fitness for employment must be obtained in all factories—

- (a) In which or in connection with which steam or other mechanical power is used.
- (b) In which or in connection with which work is carried on incidental to the following businesses, manufactures, or trades :—

- Aerated Water Works.
- Bakehouses.
- Blast Furnaces.
- Bleaching and Dyeing Works.
- Bookbinding Works.
- Brick and Tile Works.
- Candle, Soap, and Tallow Works.
- Chemical Works.
- Cigars, Cigarettes, and Tobacco Works.
- Coach-building Works.
- Copper Mills.
- Die-sinking and Engraving Works.
- Earthenware Works.
- Foundries.
- Galvanizing Works.
- Glass and Glass Bottle Works.
- Glass Bevelling and Cutting.
- Glass Silvering and Staining.
- Iron Mills.
- Lead and Shot Works.
- Manure Works, Bone Mills, Glue Works, &c.
- Metal Works (that is to say):—Any works in which the manufacture of any article of metal is carried out.
- Paint Works.
- Painting and Varnishing.
- Plumbers' Works.
- Printing Works.
- Rope Works.

REGULATIONS.

Certificates of Fitness in the following businesses, manufactures, or trades—*continued*.

Stone-dressing Works.
Tinware Works.
Varnish Works.
White Lead Works.
Wire Works.
Woolwash and Fellmongery

And in such other cases as the Minister may, by written notice, require.

Examination by Legally Qualified Medical Practitioner.

48. Where an examination for a certificate under Section 45 of the Act is required, the Chief Inspector of the Department of Labour and Industry, or Inspector, shall, upon application to him, supply a printed form as hereto, and it shall be the duty of such Medical Practitioner in every case in which he shall think it right to grant his certificate to fill into such form the required particulars, and the applicant must forward the portion indicated to the Chief Inspector or Inspector at the address stated upon it, in order that the particulars contained therein may be noted.

[Forward to Factory Inspector—

Address—]

No.
Date
Place
Name of Applicant
Residence
Age
In what class or classes of Factory
to be employed
Remarks
Certificate granted*
withheld*

Legally-qualified
Medical Practitioner.

Address—

*Strike out either of these words accordingly as the certificate may be granted or withheld.

No.

[Hand to person examined.]

Factories and Shops Act of 1912.

Certificate under Section 45 of the Factories and Shops Act of 1912.

I, being a legally-qualified medical practitioner, have been satisfied either by

(a) a certificate of birth,

(b) a statutory declaration,

that of is of the age of years, and I certify that has been personally examined by me, and is not incapacitated by disease or bodily infirmity for working daily for the time allowed by law in the following class or classes of factories,* viz. :—

Legally-qualified Medical Practitioner.

Address

Date

*NOTE.—If the certifying medical practitioner is of opinion that he can truly give the certificate for employment in all or any factories he may here insert the words "all classes," or he may confine the certificate to any particular class or classes of factories by naming same.

49. The report of an Inspector of any breach or contravention of the Act or the Regulations thereunder may be made in the following form :—

Factories and Shops Act of 1912.

Report.

Subject
Name of Occupier
Trade
Address
Date of Visit

Particulars.

50. The authority to institute a prosecution required by Section 52, may be in the following form :—

Authority to institute a Prosecution.

Breach of

WHEREAS under Section 52 of the Act No. 39, 1912, it is provided that every breach or contravention of the said Act, or the Regulation 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.

Now I, administering the said Act, do hereby authorise to institute a prosecution against

Minister for Labour and Industry, being the Minister for the time being an Inspector under the said Act,

As Witness my Hand the

day of

for

, A.D. 191 .

Minister.

51. Any person contravening any of the provisions of any of these Regulations shall, on conviction, be liable to a penalty not exceeding twenty pounds.

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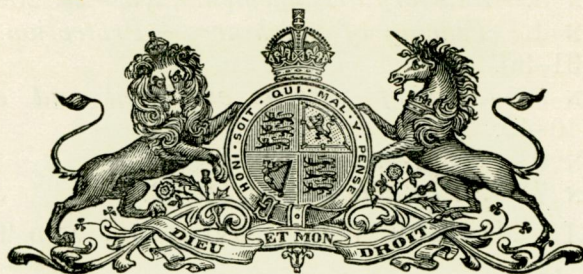
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I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Assembly Chamber,
Sydney, 13 November, 1912.*

*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

New South Wales.



ANNO TERTIO

GEORGII V REGIS.

Act No. 39, 1912.

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

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

PART I.

PRELIMINARY.

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

PART I.—PRELIMINARY—ss. 1-2.

PART

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

*R. D. MEAGHER,
Chairman of Committees of the Legislative Assembly.*

*Factories and Shops (No. 2).***PART II.—FACTORIES AND SHOPS—ss. 3-62.**

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

DIVISION 2.—*Records—ss. 14-19.*

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

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

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

DIVISION 6.—*Shops—ss. 50-51.*

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

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

Repeal and savings.

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

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

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

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

PART II.**FACTORIES AND SHOPS.**

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

Interpretation.

60 Vic. No. 37, s. 2. another meaning—

No. 28, 1909, s. 2.

3. In this Part of this Act, unless the context requires

“Bakehouse” means any place in which any bread, pastry, sweetmeats, or sugar goods are made or baked for sale, and includes any place or room used in connection with the
bakehouse

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bakehouse for storing such food when baked or to be baked, or any material to be used for the manufacture of such food to be baked.

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

“Employee” means any person in the employment of an occupier. *Ibid.*

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

“Factory” means—

- (a) any office, building, or place in which four or more persons *Ibid.* are engaged directly or indirectly in working at any handicraft, or in preparing or manufacturing articles for trade or sale; and includes laundries and dyeworks in which four or more persons are engaged; but does not include any building or place in which the persons engaged in working are shown to the satisfaction of the Minister to be all members of one family, and in which steam or other mechanical power is not used; No. 28, 1909, s. 2, (b).
- (b) any office, building, or place in which one or more Chinese *Ibid.* s. 2, (c) are so engaged;
- (c) any place or building where steam or other mechanical power or appliance is used in manufacturing goods or packing them for transit, or in generating electricity, water power, or any other power; 60 Vic. No. 37, s. 2. No. 28, 1909, s. 2, (d).
- (d) any bakehouse, but does not include any building used for the manufacture of dairy produce, nor any woolshed used for shearing sheep, or building used for dumping wool, or any ship. *Ibid.* s. 2, (e). 60 Vic. No. 37, s. 2.

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.

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

“Mechanical power” means power generated by water, steam, gas, oil, electricity, or any power other than manual power. No. 28, 1909, s. 2 (f).

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

“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, 60 Vic. No. 37, s. 2.

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

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

For the purposes of any structural alteration or building additions required by this Part of this Act to be made to a factory or shop, the Minister may, by notice in the form prescribed, notify the owner of the factory or shop, or the person receiving the rent for the same, whether on his own account or on account of any other person, that he will regard him for such special purposes as the occupier of the same; and thereafter the said owner or person shall, for the said purposes, be deemed to be the occupier of the factory or shop.

60 Vic. No. 37, s. 2.

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

Ibid.

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

Ibid.

“Shopkeeper” means the occupier of a shop.

Act to apply only to declared districts.

60 Vic. No. 37, s. 3.

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

Factories may be exempted.

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

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

Appointment of inspectors.

Ibid. s. 4.

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

Registration of factories.

Ibid. s. 5.

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

Ibid. s. 6.

No. 28, 1909, s. 3.

(2) Every person in occupation of, or about to occupy, any premises which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall

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shall, not less than seven days before it is so used or again used as a factory, forward to the inspector of the district, or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice may register the premises and issue a certificate of registration to the person giving such notice.

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

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

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

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

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

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

Appeal to Minister.

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

Determination of
appeal.

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

Order by Minister
on appeal.

(5) Where an inspector reports that in his opinion no requirements that may be specified will, by reason of structural difficulties

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difficulties, sanitary defects, or otherwise, fit any office, building, or place, for use as a factory, he shall so report to the Minister, and the Minister may thereupon take such action as hereinbefore referred to, and make an order forbidding the use of the said office, building, or place as a factory or such other order as he may think fit.

Powers of inspectors.

60 Vic. No. 37, s. 7.

No. 28, 1909, s. 5.

9. Every inspector shall have power—

- (1) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, or any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;
- (2) to take with him in either case an officer of health or inspector of nuisances, or any person whom he may think qualified to act as an interpreter; or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;
- (3) to require the production of the certificate of registration of any factory, or any book, notice, record, list, or document which is by this Part of this Act, or the regulations hereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;
- (4) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Part of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;
- (5) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Part of this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined:

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

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

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

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

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

Obstructing an inspector.
Ibid. s. 9.

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.

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

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

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

DIVISION 2.—*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 twenty-one years of age, and such other particulars as may from time to time be prescribed.

Records to be kept.
60 Vic. No. 37, s. 12.
No. 28, 1909, s. 6.

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

A copy of the Act, regulations, &c., to be posted up in factories.
81 s. 141

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

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

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

Record of outside work.
Ibid. s. 14.

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

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- (b) the places where those persons are employed ;
- (c) the rate of payment in each instance.

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

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

Occupier for
purposes of this
section,
60 Vic. No. 37, s. 15.

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

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

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

Annual report.
Ibid. s. 17.

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

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

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

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

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

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

21.

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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.
60 Vic. No. 37, s. 19.

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

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 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.
Ibid. s. 20.

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 maltings and breweries; or to cheese and sugar-refining factories, or to sugar-mills or shearing sheds.

Exemptions.

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

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

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

(2)

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

- (2) no earth or water-closet, cesspit, urinal, or ashpit shall be within or communicate with the bakehouse :
- (3) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet ;
- (4) no drain-pipe for carrying off fœcal or sewage matter shall have an opening within the bakehouse.

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.
60 Vic. No. 37, 22.

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

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

Ventilation, &c., in
certain cases.
Ibid. s. 23.

25. If it appear to the inspector that—

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

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 Part of this Act.

Sitting
accommodation for
females.
Ibid. s. 24.
No. 28, 1909, s. 7.

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

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

27.

Factories and Shops (No. 2).

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

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

28. Every occupier of a factory or shop who causes or permits wearing apparel to be made, cleaned, or repaired in, or issues any materials from, any building, whether a factory or not, in which any person is suffering from a disease declared by or under any law relating to public health to be an infectious disease, shall be liable to a penalty not exceeding twenty pounds, unless he proves that he was not aware of the existence of the disease in the building and could not reasonably have been expected to become aware of it.

Avoidance of infection.
Ibid. s. 9.

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

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

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

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

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

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

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

32.

Factories and Shops (No. 2).

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

60 Vic. No. 37, s. 27.

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

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

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

Dangerous
machinery.

Ibid. s. 28.

No. 28, 1909, s. 10.

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

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

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

Safeguards from
machinery to be
provided.

60 Vic. No. 37, s. 29.

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

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

(3)

Factories and Shops (No. 2).

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

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

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

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

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

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

Unsafe or dangerous elevator or lift.

Factories and Shops (No. 2).

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.
60 Vic. No. 37, s. 32.

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

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 Part of this Act.

Accidents in
factories.
Ibid. s. 33.

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

- (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.
Ibid. s. 34.
No. 28, 1909, s. 12.

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

Extinguishing fire.

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

(3)

Factories and Shops (No. 2).

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

Means of escape from fire.
No. 28, 1909,
s. 12.

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

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

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

No child to be employed.
60 Vic. No. 37, s. 35.

41. The Minister may, by order, prohibit the employment in any factory or class of factory, at or in connection with any machinery described in such order as dangerous, of males under the age of sixteen years or of females in any work in which he considers it undesirable that they should be employed.

Employment of women and young persons may be prohibited in certain cases.
No. 28, 1909, s. 13.

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

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

Interval for meals in certain cases.
60 Vic. No. 37, s. 36.

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

Hours of employment may be extended under certain conditions.

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.

Ibid. s. 37.
No. 29, 1908, s. 7.
No. 28, 1909, s. 14.

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

The

Factories and Shops (No. 2).

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.

Notice of overtime
working.

No. 28, 1909, s. 14.

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

Record of overtime.

Ibid.

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

Working must be to
meet exigencies of
trade.

Ibid.

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

Occupier debarred
from using proviso.

Ibid.

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

Penalty.

Ibid.

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

Restriction in certain
class of employment.

60 Vic. No. 37, s. 38.

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

Certificate of fitness.

Ibid. s. 39.

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

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

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in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

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

- (a) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the registration of births of the birth of the person (and such certificate of birth shall be given by the registrar without fee); or
- (b) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

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

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

- (a) in any factory;
- (b) in the business of but outside any factory,

Limitation of
employment for
young persons.
60 Vic. No. 37, s. 40.
No. 28, 1909, s. 15.

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

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

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

Where person
under sixteen
incapacitated
for working
daily.
60 Vic. No. 37, s. 41.

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Female not to be employed for four weeks after confinement.
60 Vic. No. 37, s. 42.

Hours of employment in Chinese and certain other factories.
No. 28, 1909, s. 16.

Penalty.

Evidence.

Suspension of operation of section.

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

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

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

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

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

(b) that during such time any member of the police force or inspector was refused or could not gain immediate admission to such factory,

shall be proof that the provisions of this section have been contravened by the defendant.

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

DIVISION 6.—Shops.

Limitation of hours of work in certain cases.
60 Vic. No. 37, s. 43.

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

(2)

Factories and Shops (No. 2).

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

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

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

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

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

51. The Governor may, subject to the provisions of this Part of this Act, make regulations under which males under sixteen years of age and females under eighteen years of age may be employed in any shops of the classes included in Schedule Three to this Act. Governor may make regulations.
60 Vic. No. 37, s. 44.

DIVISION 7.—*Miscellaneous.*

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

(2) In a prosecution for any such breach or contravention, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature. No. 38, 1909, s. 17.

53. No occupier of a factory or shop shall contract with any employee against any liability under this Part of this Act. Occupier not to contract with employees against liability.
60 Vic. No. 37, s. 46.

54. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. Recovery of penalties.
Ibid. s. 47.
No. 27, 1902 s. 82.

55.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

60 Vic. No. 37, s. 54.

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

Governor to have power to make regulations.

Ibid. s. 55.

No. 28, 1909, s. 18.

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

(h)

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

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

PART III.

MINIMUM WAGE, OVERTIME, AND TEA-MONEY.

Definitions.

No. 29, 1908, s. 2.

63. In this Part of this Act,—

“Employer” means—

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

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

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

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

“Workman” means—

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

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

64. (1) A workman works overtime within the meaning of this Part of this Act when he works more than forty-eight hours in any week or after six o'clock in the evening on any working day. Definition of overtime.
No. 29, 1908, s. 3.

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

Minimum wage.

65. No workman or shop-assistant shall be employed unless in the receipt of a weekly wage of at least four shillings, irrespective of any amount earned as overtime. Minimum wage.
Ibid. s. 4.

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

66. Whosoever, either directly or indirectly, or by any pretence or device, requires or permits any person to pay or give, or receives from any person any consideration, premium, or bonus for the engaging or employing by him of any female in preparing, working at, dealing with, or manufacturing articles of clothing or wearing apparel for trade or sale shall be liable on conviction to a penalty not exceeding ten pounds; and the person who has paid or given such consideration, premium, or bonus may recover the same in any court of competent jurisdiction from the person who received the same. Premium or bonus in certain occupations.
Ibid. s. 5.

Overtime and tea-money.

67. (1) Where a workman or shop-assistant, being a male under sixteen years of age or a female, works overtime, his employer shall, unless exempted under this section, pay such workman or shop-assistant not less than threepence for every hour or portion of an hour of the overtime worked. Minimum overtime pay.
Ibid. s. 6.

Such

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

Payment for overtime.

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

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

Penalty.

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

Tea-money.

No. 29, 1908, s. 8.

68. Where any workman or shop-assistant, being a male under sixteen years of age or a female, is required by his employer to work overtime on any day, the employer shall on such day pay such workman or shop-assistant a sum of not less than sixpence as tea-money, and if he fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds.

Supplemental.

Records to be kept by employers.

Ibid. s. 9.

69. (1) Every employer shall—

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

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

Powers of inspectors under this Act.

Ibid. s. 10.

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

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

Obstruction of inspector.

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

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

71. The Governor may make regulations for carrying out the provisions of this Part of this Act, and prescribing the forms to be used in its administration, and may in such regulations impose any penalty not exceeding ten pounds for any breach of the same. Regulations. No. 29, 1908, s. 11.

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

72. Contraventions or breaches of this Part of this Act, or of the regulations made hereunder, shall be reported to the Minister by inspectors, and no proceedings in respect thereof shall be instituted without the authority of the Minister. Report of contravention and breaches, and proceedings in respect thereof. Ibid. s. 12.

73. The penalty for any such contravention or breach may be recovered before a stipendiary or police magistrate, or any two justices of the peace in petty sessions: Provided that proceedings for recovering any such penalty must be commenced within three months after such contravention or breach. Recovery of penalties. Ibid. s. 13.

Savings.

74. This part of this Act shall not apply where all the persons employed as workmen and shop-assistants are members of the employer's family, related in the first or second degree by blood or first degree by marriage to the employer. Savings. Ibid. s. 14.

SCHEDULES.

SCHEDULE ONE.

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

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SCHEDULE TWO.

Factories in which the employment of persons is restricted.

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

SCHEDULE THREE.

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

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

*State Government House,
Sydney, 26th November, 1912.*

CHELMSFORD,
Governor.

STATUTES CONSOLIDATION COMMISSION.

COMMISSIONER'S MEMORANDUM AND CERTIFICATE.

FACTORIES AND SHOPS BILL.

THIS Bill consolidates—Factories and Shops Act of 1896 ; the Minimum Wage Act, 1908 ; the Factories and Shops (Amendment) Act, 1909.

Clause 6. Under the Acts repealed there was a curious omission. Persons who occupied factories "at the commencement of the Act," that is, at the 1st January, 1897, and also persons who opened new factories or reopened old ones were compellable to register, but there was no obligation upon an occupier to register his factory when the locality in which it was situated was proclaimed a district after the commencement of the Act. In administration, this difficulty was overcome by reading the words "commencement of this Act" to include also the time when by proclamation any locality was declared to be a district under the Act, but this it is submitted would not be held to be the proper construction if the question were raised in any prosecution. The omission has been remedied by an addition to clause 6 (1).

I certify that, save as aforesaid, this Bill solely consolidates and in no way alters, adds to, or amends the law as contained in the Acts thereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Factories and Shops Bill.

TABLE showing how the sections of the Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
60 VICTORIA, No. 37.		
1	.....	Short title
2	3	
3	4	
4	5	
5	6 (I)	
6 (I)	.....	Repealed by No. 28, 1909, s. 3.
6 (II)	6 (II)	
7	9	
8	10	
9	11	
10	12	
11	13	
12	14	
13	15	
14	16	
15	17	
16	18	
17	19	
18	20	
19	21	
20	22	
21	23	
22	24	
23	25	
24	26	
25	Repealed by No. 28, 1909, s. 2.
26	31	
27	32	
28	33	
29	34	
30	35	
31	36	
32	37	
33	38	
34	39	
35	40	
36	42	
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39	45	
40	46	
41	47	
42	48	
43	50	

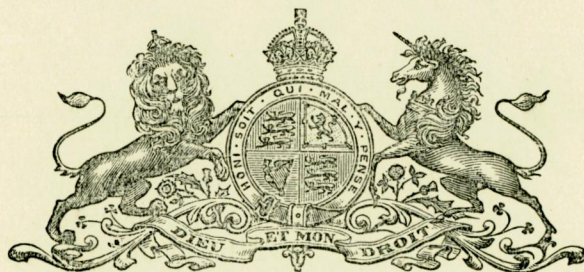
Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
60 VICTORIA, No. 37— <i>continues</i> .		
44	51	
45	52	
46	53	
47	54	
48	55	
49	56	
50	57	
51	58	
52	59	
53	60	
54	61	
55	62	
Schedules One and Two.	Schedules Two and Three.	
No. 29, 1908.		
1	.....	Short title.
2	63	
3	64	
4	65	
5	66	
6	67	
7	43	
8	68	
9	69	
10	70	
11	71	
12	72	
13	73	
14	74	
No. 28, 1909.		
1	.....	Short title.
2	3	
2	6	
4	7, 8	
5	9	
6	14	
7	26	
8	27	
9	28, 29, 30	
10	33	
11	35	
12	39	
13	41	
14	43	
15	46	
16	49	
17	52	
18	62	

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, 12 November, 1912.* }

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

New South Wales.



ANNO TERTIO

GEORGII V REGIS.

Act No. , 1912.

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

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

PART I.

PRELIMINARY.

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

PART I.—PRELIMINARY—ss. 1-2,

77—A

PART

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

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

DIVISION 2.—*Records*—ss. 14-19.

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

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

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

DIVISION 6.—*Shops*—ss. 50-51.

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

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

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

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

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

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

PART II.

FACTORIES AND SHOPS.

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

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

“Bakehouse” means any place in which any bread, pastry, No. 28, 1909, s. 2. sweetmeats, or sugar goods are made or baked for sale, and includes any place or room used in connection with the bakehouse

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bakehouse for storing such food when baked or to be baked, or any material to be used for the manufacture of such food to be baked.

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

“Employee” means any person in the employment of an occupier. *Ibid.*

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

“Factory” means—

- (a) any office, building, or place in which four or more persons *Ibid.* are engaged directly or indirectly in working at any handi- No. 28, 1909, s. 2, (b). craft, or in preparing or manufacturing articles for trade or sale; and includes laundries and dyeworks in which four or more persons are engaged; but does not include any building or place in which the persons engaged in working are shown to the satisfaction of the Minister to be all members of one family, and in which steam or other mechanical power is not used;
- (b) any office, building, or place in which one or more Chinese *Ibid.* s. 2, (c). are so engaged;
- (c) any place or building where steam or other mechanical 60 Vic. No. 37, s. 2. power or appliance is used in manufacturing goods or No. 28, 1909, s. 2, (d). packing them for transit, or in generating electricity, water power, or any other power;
- (d) any bakehouse, but does not include any building used for the manufacture *Ibid.* s. 2, (e). of dairy produce, nor any woolshed used for shearing sheep, 60 Vic. No. 37, s. 2. 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.

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

“Mechanical power” means power generated by water, steam, No. 28, 1909, s. 2 (f). gas, oil, electricity, or any power other than manual power.

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

“Occupier” means the person, company, or association employing 60 Vic. No. 37, s. 2. persons in any factory or shop, or occupying any office, building, or place used as a factory or shop, and includes any agent,

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

For the purposes of any structural alteration or building additions required by this Part of this Act to be made to a factory or shop, the Minister may, by notice in the form prescribed, notify the owner of the factory or shop, or the person receiving the rent for the same, whether on his own account or on account of any other person, that he will regard him for such special purposes as the occupier of the same; and thereafter the said owner or person shall, for the said purposes, be deemed to be the occupier of the factory or shop.

“Prescribed” means prescribed by this Part of this Act or regulations under this Part of this Act. No. 28, 1909, s. 2 (g).
60 Vic. No. 37, s. 2.

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

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

4. (1) This Part of this Act shall apply only to such localities as are declared or deemed to be declared by the Governor, by proclamation in the Gazette, to be a district or districts for the purposes of this Part of this Act. Act to apply only to declared districts.
60 Vic. No. 37, s. 3.

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

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

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

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

(2) Every person in occupation of, or about to occupy, any premises which it is intended to use as a factory for the first time, or which after a period of disuse it is intended to again use as a factory, shall *Ibid.* s. 6.
No. 28, 1909, s. 3.

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shall, not less than seven days before it is so used or again used as a factory, forward to the inspector of the district, or such other person as the Governor may appoint, a written notice containing such particulars as may be prescribed. The inspector or such other person as aforesaid on the receipt of the said notice may register the premises and issue a certificate of registration to the person giving such notice.

(2) The inspector or such other person as aforesaid may, if No. 28, 1909, s. 3. he thinks fit, instead of registering the premises, issue a permit authorising the use of the premises for a period to be named in such permit pending the carrying out of any alterations or repairs required in order to make such premises suitable for a factory. Such permit may, from time to time, be extended by the Minister.

7. Any person in occupation of an unregistered factory within a district to which at the time of such occupation the provisions of this Part of this Act or of the Factories and Shops Act of 1896, have for a period of at least twenty-eight days been applied shall be liable to a penalty not exceeding ten pounds unless he proves that he had duly applied within the prescribed time for the registration of the factory, and had taken all proper measures to obtain the registration of the factory and that such application had not been refused, or that he is the holder of a permit under this Part of this Act authorising him to occupy the factory. Penalty for occupation of unregistered factory. Ibid. s. 4.

8. (1) If, in the opinion of an inspector, any office, building, or place used or about to be used as a factory, is unfit for such purpose, he shall, by notice in writing, served on the occupier or the applicant for registration of the factory, personally or posted to his last known address, request such occupier or applicant to comply with such requirements specified in such notice as he may deem necessary to render such office, building, or place fit for occupation as a factory. Notification by inspector of defects in building. Ibid. s. 4.

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

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

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

(5) Where an inspector reports that in his opinion no requirements that may be specified will, by reason of structural difficulties

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difficulties, sanitary defects, or otherwise, fit any office, building, or place, for use as a factory, he shall so report to the Minister, and the Minister may thereupon take such action as hereinbefore referred to, and make an order forbidding the use of the said office, building, or place as a factory or such other order as he may think fit.

9. Every inspector shall have power—

Powers of inspectors.

- (1) to enter, inspect, and examine, at all reasonable hours by day or night, any factory or shop, or any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe is used as a factory or shop;
- (2) to take with him in either case an officer of health or inspector of nuisances, or any person whom he may think qualified to act as an interpreter; or, in any case in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable;
- (3) to require the production of the certificate of registration of any factory, or any book, notice, record, list, or document which is by this Part of this Act, or the regulations hereunder, required to be kept or exhibited in any factory or shop, and to inspect, examine, and copy the same;
- (4) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Part of this Act or any Act relating to the public health are complied with so far as respects the factory or shop, and the persons employed therein;
- (5) to examine alone, or in the presence of any other person, as he thinks fit, with respect to matters under this Part of this Act, any person whom he finds in a factory or shop, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or shop, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined:

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

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

60 Vic. No. 37, s. 7.
No. 28, 1909, s. 5.

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

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

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

Obstructing an inspector.
Ibid. s. 9.

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.

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

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

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

DIVISION 2.—*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 twenty-one years of age, and such other particulars as may from time to time be prescribed.

Records to be kept.
60 Vic. No. 37, s. 12.
No. 28, 1909, s. 6

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

A 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. 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.

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

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

Record of outside work.
Ibid. s. 14.

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

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- (b) the places where those persons are employed ;
- (c) the rate of payment in each instance.

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

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

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

Occupier for purposes of this section,
60 Vic. No. 37, s. 15.

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

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

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

Annual report.
Ibid. s. 17.

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

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

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

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

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

21.

Factories and Shops (No. 2).

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.
60 Vic. No. 37, s. 19.

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

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 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.
Ibid. s. 20.

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 maltings and breweries; or to cheese and sugar-refining factories, or to sugar-mills or shearing sheds.

Exemptions.

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

Bakehouses not
to be used as
sleeping-places.

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

Ibid. s. 21.

(2)

Factories and Shops (No. 2).

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

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

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

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

25. If it appear to the inspector that—

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

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

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

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

27.

Factories and Shops (No. 2).

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

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

28. Every occupier of a factory or shop who causes or permits wearing apparel to be made, cleaned, or repaired in, or issues any materials from, any building, whether a factory or not, in which any person is suffering from a disease declared by or under any law relating to public health to be an infectious disease, shall be liable to a penalty not exceeding twenty pounds, unless he proves that he was not aware of the existence of the disease in the building and could not reasonably have been expected to become aware of it.

Avoidance of infection.
Ibid. s. 9.

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

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

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

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

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

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

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

32.

Factories and Shops (No. 2).

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

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

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

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

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

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

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

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

(3)

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

Dangerous machinery.
Ibid. s. 28.
No. 28, 1903, s. 10.

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

Factories and Shops (No. 2).

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

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

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

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

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

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

Unsafe or dangerous
elevator or lift.

Factories and Shops (No. 2).

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

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

Restriction on
employment of
females and males
under certain ages.
60 Vic. No. 37, s. 32.

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 Part of this Act.

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

Accidents in
factories.
Ibid. s. 33.

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

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

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

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

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

Extinguishing fire.

(3)

Factories and Shops (No. 2).

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

Means of escape from fire.
No. 28, 1909,
s. 12.

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

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

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

No child to be employed.
60 Vic. No. 37, s. 35.

41. The Minister may, by order, prohibit the employment in any factory or class of factory, at or in connection with any machinery described in such order as dangerous, of males under the age of sixteen years or of females in any work in which he considers it undesirable that they should be employed.

Employment of women and young persons may be prohibited in certain cases.
No. 28, 1909, s. 13.

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

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

Interval for meals in certain cases.
60 Vic. No. 37, s. 36.

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

Hours of employment may be extended under certain conditions,

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.

Ibid. s. 37.
No. 29, 1908, s. 7.
No. 28, 1909, s. 14.

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

The

Factories and Shops (No. 2).

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

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

Notice of overtime working.
No. 28, 1909, s. 14.

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

Record of overtime.
Ibid.

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

Working must be to meet exigencies of trade.
Ibid.

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

Occupier debarred from using proviso.
Ibid.

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

Penalty.
Ibid.

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

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

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

Certificate of fitness.
Ibid. s. 39.

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

in

Factories and Shops (No. 2).

in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

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

- (a) a certified copy of the entry in a register of births kept in pursuance of any Act in force for the time being relating to the registration of births of the birth of the person (and such certificate of birth shall be given by the registrar without fee); or
- (b) a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

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

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

- (a) in any factory;
- (b) in the business of but outside any factory,

Limitation of
employment for
young persons.
60 Vic. No. 37, s. 40.
No. 28, 1909, s. 15.

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

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

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

Where person
under sixteen
incapacitated
for working
daily.
60 Vic. No. 37, s. 41.

Factories and Shops (No. 2).

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

Female not to be employed for four weeks after confinement.
60 Vic. No. 37, s. 42.

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

Hours of employment in Chinese and certain other factories.
No. 28, 1909, s. 16.

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

Penalty.

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

Evidence.

- (a) that at any time during which work is prohibited by this section in any factory, sounds have been heard, such as would ordinarily be heard if made by persons engaged in such factory in the usual work therein carried on; and
- (b) that during such time any member of the police force or inspector was refused or could not gain immediate admission to such factory,

shall be proof that the provisions of this section have been contravened by the defendant.

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

Suspension of operation of section.

DIVISION 6.—Shops.

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

Limitation of hours of work in certain cases.

60 Vic. No. 37, s. 43.

(2)

Factories and Shops (No. 2).

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

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

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

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

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

51. The Governor may, subject to the provisions of this Part of this Act, make regulations under which males under sixteen years of age and females under eighteen years of age may be employed in any shops of the classes included in Schedule Three to this Act. Governor may make regulations.
60 Vic. No. 37, s. 44.

DIVISION 7.—Miscellaneous.

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

(2) In a prosecution for any such breach or contravention, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of such authority without proof of the Minister's signature. No. 38, 1909, s. 17.

53. No occupier of a factory or shop shall contract with any employee against any liability under this Part of this Act. Occupier not to contract with employees against liability.
60 Vic. No. 37, s. 46.

54. All penalties imposed by this Act, or the regulations made thereunder, may be recovered summarily before a stipendiary or police magistrate or any two or more justices of the peace. Recovery of penalties.
Ibid. s. 47.

55. No. 27, 1902 s. 82.

Factories and Shops (No. 2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

60 Vic. No. 37, s. 54.

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

Governor to have power to make regulations.

Ibid. s. 55.

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

No. 28, 1909, s. 18.

Factories and Shops (No. 2).

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

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

PART III.

MINIMUM WAGE, OVERTIME, AND TEA-MONEY.

63. In this Part of this Act,—

“Employer” means—

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

Definitions.

No. 29, 1908, s. 2.

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

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

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

“Workman” means—

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

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

64. (1) A workman works overtime within the meaning of this Part of this Act when he works more than forty-eight hours in any week or after six o'clock in the evening on any working day. Definition of overtime. No. 29, 1908, s. 3.

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

Minimum wage.

65. No workman or shop-assistant shall be employed unless in the receipt of a weekly wage of at least four shillings, irrespective of any amount earned as overtime. Minimum wage. Ibid. s. 4.

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

66. Whosoever, either directly or indirectly, or by any pretence or device, requires or permits any person to pay or give, or receives from any person any consideration, premium, or bonus for the engaging or employing by him of any female in preparing, working at, dealing with, or manufacturing articles of clothing or wearing apparel for trade or sale shall be liable on conviction to a penalty not exceeding ten pounds; and the person who has paid or given such consideration, premium, or bonus may recover the same in any court of competent jurisdiction from the person who received the same. Premium or bonus in certain occupations. Ibid. s. 5.

Overtime and tea-money.

67. (1) Where a workman or shop-assistant, being a male under sixteen years of age or a female, works overtime, his employer shall, unless exempted under this section, pay such workman or shop-assistant not less than threepence for every hour or portion of an hour of the overtime worked. Minimum overtime pay. Ibid. s. 6. Such

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

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

Payment for overtime.

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

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

Penalty.

68. Where any workman or shop-assistant, being a male under sixteen years of age or a female, is required by his employer to work overtime on any day, the employer shall on such day pay such workman or shop-assistant a sum of not less than sixpence as tea-money, and if he fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds.

Tea-money.

No. 29, 1908, s. 8.

Supplemental.

69. (1) Every employer shall—

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

Records to be kept by employers.

Ibid. s. 9.

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

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

Powers of inspector s under this Act.

Ibid. s. 10.

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

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

Obstruction of inspector.

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

71. The Governor may make regulations for carrying out the provisions of this Part of this Act, and prescribing the forms to be used in its administration, and may in such regulations impose any penalty not exceeding ten pounds for any breach of the same. Regulations.
No. 29, 1908, s. 11.

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

72. Contraventions or breaches of this Part of this Act, or of the regulations made hereunder, shall be reported to the Minister by inspectors, and no proceedings in respect thereof shall be instituted without the authority of the Minister. Report of contraven-
tion and breaches,
and proceedings in
respect thereof.
Ibid. s. 12.

73. The penalty for any such contravention or breach may be recovered before a stipendiary or police magistrate, or any two justices of the peace in petty sessions: Provided that proceedings for recovering any such penalty must be commenced within three months after such contravention or breach. Recovery of
penalties.
Ibid. s. 13.

Savings.

74. This part of this Act shall not apply where all the persons employed as workmen and shop-assistants are members of the employer's family, related in the first or second degree by blood or first degree by marriage to the employer. Savings.
Ibid. s. 14.

SCHEDULES.

SCHEDULE ONE.

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

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SCHEDULE TWO.

Factories in which the employment of persons is restricted.

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

SCHEDULE THREE.

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