

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
20th May, 1936.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]
22nd May, 1936.

Hon. Mr. Armstrong.

FACTORIES AMENDMENT.

ANALYSIS.

Title.	
1. Short Title and commencement.	9. Payment for overtime worked unlawfully.
2. Extending definition of term "factory".	10. Power to extend provisions of principal Act relating to work done elsewhere than in a factory.
3. Limiting hours of work in factories. Consequential repeals. Commencement of this section.	11. Licensing of persons employed to do work elsewhere than in a factory. Repeal.
4. Special provisions in respect of dairy factories.	12. Minimum wages in factories. Repeal.
5. Prohibiting employment of women and boys on Sundays.	13. Extending provisions as to holidays.
6. Increasing rates of pay for overtime.	14. Wages payable for holidays. Consequential repeal.
7. As to working-hours and overtime in laundries. Commencement of this section.	15. Extension of application of rules for prevention of accidents in factories.
8. Wages not to be reduced on account of reduction in working-hours.	16. Extension of time for commencing proceedings for offences.
	17. Awards and industrial agreements to be read subject to this Act.

A BILL INTITULED

AN ACT to amend the Factories Act, 1921-22.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Factories Amendment Act, 1936, and shall be read together with and deemed part of the Factories Act, 1921-22 (hereinafter referred to as the principal Act).

Short Title.
and
commencement.
See Reprint
of Statutes,
Vol. III,
p. 198

No. 15-6.

(2) Except as provided in sections *three* and *seven* hereof, this Act shall come into force on the first day of ~~June~~, *July*, nineteen hundred and thirty-six.

Extending
definition
of term
"factory".

2. Section two of the principal Act is hereby amended by omitting from paragraph (a) of the definition of the term "factory" the word "two", and substituting the word "one"; and also by omitting from the same paragraph the words "(whatever the number of persons employed therein)".

Limiting
hours of
work in
factories.

3. (1) Subject to the provisions of the principal Act and of this section, no worker shall be employed in or about a factory—

- (a) For more than forty hours (excluding meal-times) in any one week; or
- (b) For more than eight hours (excluding meal-times) in any one day; or
- (c) For more than four hours and one-quarter continuously without an interval of at least three-quarters of an hour for a meal.

(2) Subject to the provisions of the principal Act, no woman or boy shall be employed in or about a factory—

- (a) At any time between the hours of six o'clock in the evening of any day and eight o'clock in the morning of the following day; or
- (b) On any Sunday; or
- (c) On any holiday or half-holiday.

(3) The limits of working-hours prescribed by subsection *one* of this section shall not apply with respect to any male worker employed in any works or factory comprised in any of the classes specified in the Second Schedule to the principal Act.

(4) A male worker over the age of eighteen years may be employed in getting up steam for machinery in a factory, or in making preparations for the work of a factory, beyond the working-hours prescribed by subsection *one* of this section, but not for more than one hour in any one day. Every such worker so employed shall be paid therefor at the ordinary rate.

(5) On application made by any occupier of a factory the Court of Arbitration may, by order, extend in respect of the factory for any specified period all or any of the limits of working-hours prescribed by subsection *one* of this section, if in the opinion of the Court it would

be impracticable to carry on efficiently the work of the factory without the extension. No order under this subsection shall extend the number of hours (excluding meal-times) during which any person may be employed
5 to more than forty-four hours in any one week.

(6) This section shall not apply to laundries.

(7) This section is in substitution for sections seventeen and eighteen and subsection six of section twenty-six of the principal Act, and those enactments
10 are hereby accordingly repealed.

Consequential repeals.

(8) This section shall come into force on the first day of ~~July~~, *September*, nineteen hundred and thirty-six.

Commencement of this section.

4. (1) Except as otherwise provided in this section, no worker shall be employed in or about a dairy
15 factory or a creamery on more than six days in any one week.

Special provisions in respect of dairy factories.

(2) The *last preceding* subsection shall not apply with respect to any dairy factory or creamery in which not more than two workers are regularly employed.

(3) The following provisions shall apply in respect
20 of any worker who is employed on more than six days in any week in or about any dairy factory or creamery referred to in the *last preceding* subsection, namely:—

(a) He shall be entitled to a whole holiday for every
25 additional day on which he has been so employed; or

(b) In lieu of allowing the worker any such holiday,
30 the occupier may, in addition to the ordinary wages of the worker, pay him at the ordinary rate for any additional day on which he has been so employed.

(4) All holidays to which a worker becomes entitled pursuant to paragraph (a) of the *last preceding*
35 subsection shall be given to him not later than one month after the close of the season during which he became entitled to them; and, in cases where payment in lieu of any holiday is made pursuant to paragraph (b) of the *last preceding* subsection, such payment shall be made not later than the close of such season.

5. (1) The authority conferred by section twenty-one
40 of the principal Act to extend the prescribed working-hours or times shall not be exercised so as to permit of the employment of any woman or boy on a Sunday.

Prohibiting employment of women and boys on Sundays.

(2) The said section twenty-one is hereby con-
45 sequentially amended by adding to paragraph (d) of subsection one the words " or on any Sunday "

Increasing rates of pay for overtime.

6. (1) Section twenty-one of the principal Act is hereby amended as follows:—

- (a) By omitting from subsection three the expression “one-fourth”, and substituting the expression “one-half”:
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- (b) By omitting from the first proviso to the said subsection three the words “forty-eight hours”, and substituting the words “the prescribed weekly maximum number of working-hours”:
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- (c) By omitting from the second proviso to the said subsection three the words “sixpence per hour for those persons whose ordinary wages do not exceed ten shillings a week, and ninepence per hour for all other persons so employed”, and substituting the words “one shilling and sixpence an hour”:
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(2) Where the ordinary rate is by time and not by piecework, the overtime rate payable under subsection four or subsection five of section twenty-six of the principal Act to any boy under the age of eighteen years or any woman employed on any holiday or half-holiday pursuant to that section shall be not less than one shilling and sixpence an hour, and shall be paid at the first regular pay-day thereafter.
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(3) Section twenty-three of the principal Act is hereby amended by inserting in subsection six, after the words “one shilling”, the words “and sixpence”.

(4) For the purposes of the first proviso to subsection three of section twenty-one of the principal Act, as amended by paragraph (b) of subsection one of this section, the expression “the prescribed weekly maximum number of working-hours” means, as the case may require, either forty hours, or the weekly maximum number of hours fixed by the Court of Arbitration in any order made under subsection five of section three hereof.
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As to working-hours and overtime in laundries.

7. (1) Section twenty of the principal Act is hereby amended by repealing paragraphs (a) and (b) of subsection one, and substituting the following new paragraphs:—
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- “(a) Except as hereinafter mentioned, the hours that any person may be engaged shall not exceed forty hours (excluding meal-times)

in any one week, nor eight hours (excluding meal-times) in any one day:

5 “ (b) Except as hereinafter mentioned, no employee shall be employed for more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for a meal.”

(2) The said section is hereby further amended as follows:—

10 (a) By adding to subparagraph (iv) of paragraph (c) of subsection one the words “ or on any Sunday ”:

15 (b) By omitting from paragraph (d) of the said subsection one the word “ seven ”, and substituting the word “ six ”; and also by omitting from the said paragraph (d) the words “ a quarter to ”:

20 (c) By inserting in paragraph (j) of the said subsection one, after the words “ one shilling ”, the words “ and sixpence ”:

(d) By omitting from paragraph (k) of the said subsection one the expression “ one-fourth ”, and substituting the expression “ one-half ”:

25 (e) By omitting from the proviso to the said paragraph (k) the words “ sixpence per hour for those persons whose ordinary wages do not exceed ten shillings a week, and ninepence per hour for all other persons so employed ”, and substituting the words “ one shilling and sixpence an hour ”:

30 (f) By omitting from subsection three the words “ seventeen, eighteen ”.

(3) Subsections *four* and *five* of section *three* of this Act shall apply with respect to the working-hours prescribed in respect of laundries by section twenty of the principal Act, as amended by the foregoing provisions of this section, in the same manner as they apply in respect of other factories.

40 (4) This section (except paragraphs (c), (d), and (e) of subsection *two*) shall come into force on the first day of *July, September*, nineteen hundred and thirty-six.

45 8. No person who is employed in any factory at the commencement of this Act shall be dismissed nor shall the wages of any such person be reduced by reason merely of any reduction or alteration made in his

Commencement of this section.

Wages not to be reduced on account of reduction in working-hours.

working-hours pursuant to this Act. Where any such person is dismissed or the wages of any such person are reduced after the commencement of this Act, the burden of proving that the dismissal or reduction, as the case may be, was not a breach of the provisions of this section shall be on the occupier. 5

Payment for overtime worked unlawfully.

9. Where any worker is actually employed in or about a factory during extended hours, he shall be paid therefor in accordance with the provisions of the principal Act relating to payment for overtime, notwithstanding that the extension of hours may have been unlawful. 10

Power to extend provisions of principal Act relating to work done elsewhere than in a factory.

10. (1) The Governor-General may from time to time, by Order in Council, apply the provisions of section thirty of the principal Act to cases where the occupier of a factory lets or gives out work to be done elsewhere than in the factory in connection with any material other than textile or shoddy material (as mentioned in the said section) or in connection with any specified class or specified classes of articles. 15 20

(2) Every Order in Council issued under the *last preceding* subsection may in like manner from time to time be varied, or may be at any time in like manner revoked.

Licensing of persons employed to do work elsewhere than in a factory.

11. (1) In cases to which section thirty of the principal Act applies (including cases to which it is applied by Order in Council under the *last preceding* section), the occupier of a factory shall not let or give out work of any description to be done by any person elsewhere than in a registered factory unless that person is the holder of a license for the time being in force under this section. 25 30

(2) The occupier shall not at any time employ a greater number of persons holding licenses under this section than one for every ten or fraction of ten persons for the time being employed by the occupier in the factory. 35

(3) Every application for a license under this section shall be made by the occupier to the Inspector, and shall be accompanied by such fee as may be prescribed. 40

(4) No such license shall be granted by the Inspector unless he is satisfied—

(a) That the person to whom the application relates is in necessitous circumstances or is for special reasons unable to work in a factory; and 45

(b) That the place where the work is to be done is suitable; and

5 (c) That the rate of remuneration to be paid for the work is substantially equivalent to or is higher than the rate that would be payable if the work were done in the factory.

(5) Every license granted under this section shall remain in force for a period, not exceeding twelve months, to be specified in the license:

10 Provided that any license may be at any time revoked by the Inspector if he ceases to be satisfied as to any of the matters mentioned in the *last preceding* subsection.

(6) If any application for a license under this section is refused, or if any license granted under this section is revoked, there shall be a right of appeal to a Magistrate, exerciseable in any case either by the occupier of the factory or the person in respect of whom an application is made or by the licensee. The provisions of section sixty-six of the principal Act as to appeals from requisitions shall, with the necessary modifications, apply with respect to appeals under this section.

(7) Section thirty of the principal Act is hereby amended by repealing paragraphs (b), (c), and (d) of subsection one. Repeal.

25 **12.** (1) Section thirty-two of the principal Act is hereby amended by omitting from paragraph (a) all words before the words "No deduction", and substituting the following words: "Every person who is employed in any capacity in a factory shall be entitled to receive from the occupier such payment for his work as is agreed on, being not less than fifteen shillings in any one week during the first six months of employment, with half-yearly increments on the agreed rate of not less than four shillings a week until the end of the third year of employment, and thereafter not less than two pounds a week". Minimum wages in factories.

(2) The increase of wages provided for in the *last preceding* subsection shall apply with respect to all wages payable for any period commencing after the commencement of this Act, whether the employment has commenced before or after the commencement of this Act.

(3) For the purpose of determining the rate of payment to which any person is entitled under the said section thirty-two, as amended by this section, there shall

be taken into account all periods of that person's employment in any factory whatsoever, whether before or after the commencement of this Act.

Repeal.

(4) Section thirty-three of the principal Act is hereby amended by repealing subsection two. 5

Extending provisions as to holidays.

13. (1) Section thirty-five of the principal Act is hereby amended as follows:—

(a) By omitting the words "every boy under eighteen years of age and every woman", and substituting the words "every person": 10

(b) By omitting paragraph (a), and substituting the following new paragraph:—

"(a) A whole holiday on every Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Anzac Day, Labour Day, and birthday of the reigning Sovereign; and also". 15

(2) Section thirty-seven of the principal Act is hereby consequentially amended by inserting in paragraph (b), before the words "Easter Monday", the words "Boxing Day". 20

Wages payable for holidays.

14. (1) Wages for each whole holiday allowed to any person as provided in section thirty-five of the principal Act, as amended by the *last preceding* section, shall be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day thereafter. 25

(2) Payment of wages for the said holidays shall be made to all persons who have been employed in the factory—

(a) In the case of Christmas Day, Boxing Day, New Year's Day, Good Friday, or Easter Monday, at any time during the fortnight ending on the day on which the holiday occurs: 30

(b) In the case of any other whole holiday, for at least four days during the week ending on the day on which the holiday occurs. 35

New.

(2A) Where any person to whom paragraph (a) of the *last preceding* subsection applies has been employed by more than one person during the fortnight ending on any holiday referred to in that paragraph, he shall be entitled to receive payment for that holiday from such one or more of those employers, and if more than one in such proportions, as the Inspector determines. 40

(3) Every person who is actually employed on any whole holiday or on any Sunday shall, in addition to the payment to which he is entitled under the foregoing provisions of this section, be paid therefor at not less than double the ordinary rate, and every person who is employed on any half-holiday shall be paid therefor at not less than one-half as much again as the ordinary rate:

Provided that where the ordinary rate is by time, and not by piecework, the rate payable under this subsection shall not be less than one shilling and sixpence an hour, and shall be paid at the first regular pay-day thereafter:

New.

Provided also that where any worker employed in or about a dairy factory or a creamery in which not more than two workers are regularly employed is actually employed on any of the whole holidays specified in section thirty-five of the principal Act (as amended by the *last preceding* section) he may, in lieu of payment therefor in accordance with this subsection, be allowed two whole holidays at such time or times as the occupier may determine, being not later in any case than one month after the close of the season in which the whole holiday occurred:

Provided further that where any worker employed in a factory in which work is regularly performed on Sundays is actually employed on a Sunday he shall, in addition to any payment to which he is entitled apart from this section, be paid therefor at not less than the ordinary rate.

(4) This section is in substitution for section thirty-eight of the principal Act, and that section is hereby accordingly repealed.

15. Section thirty-nine of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one the words “ a factory in which machinery is used ”, and substituting the words “ every factory to which they are applicable ”:

Consequential repeal.

Extension of application of rules for prevention of accidents in factories.

(b) By omitting from paragraph (f) of the said subsection one all words after the words “ require the occupier ”, and substituting the words “ to repair or safeguard any specified part of the factory or any specified appliance therein, or to remedy any specified defect in the factory or in any machinery or appliance therein ”. 5

Extension of time for commencing proceedings for offences

16. (1) Section sixty-one of the principal Act is hereby amended by omitting from paragraph (a) of subsection one the word “ three ”, and substituting the word “ six ”. 10

(2) The extension of time for the commencement of proceedings provided for in the *last preceding* subsection shall apply in any case where the offence has been committed within six months before the commencement of this Act. 15

New.

Second Schedule to principal Act amended.

16A. The Second Schedule to the principal Act is hereby amended by adding thereto the following:— 20

“ 8. Wool-dumping factories.

“ 9. Low-temperature coal-carbonization factories.”

Awards and industrial agreements to be read subject to this Act.

See Reprint of Statutes, Vol. III, p. 939

17. All awards and industrial agreements under the Industrial Conciliation and Arbitration Act, 1925 (whether made before or after the commencement of this Act), shall be read subject to the provisions of this Act. 25