

Rt. Hon. R. J. Seddon.

FACTORIES.

ANALYSIS.

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A BILL INTITULED

Title.	AN ACT to consolidate and amend the Law relating to Factories. BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. The Short Title of this Act is "The Factories Act, 1900."	
Repeals.	2. The Acts specified in the Schedule hereto are hereby repealed: Provided, nevertheless, as follows:—	
Savings.	(1.) All districts constituted under the repealed Acts, and existing at the time of the repeal, shall be deemed to have been constituted under this Act. 10	
	(2.) All officers appointed under the repealed Acts, and in office at the time of the repeal, shall be deemed to have been appointed under this Act.	
	(3.) All regulations, orders, and notifications made under the repealed Acts, and in force at the time of the repeal, shall be deemed to have been made under this Act. 15	
	(4.) All registrations effected and all registers and other records made under the repealed Acts, and in force or use at the time of the repeal, shall continue in force and use for the purposes of this Act. 20	
	(5.) All proceedings in respect of offences under the repealed Acts may be instituted, prosecuted, and completed thereunder in like manner in all respects as if those Acts were not repealed. 25	
Act not to apply to shearers.	3. (1.) This Act shall not affect "The Shearers' Accommodation Act, 1898," or apply to shearers or shearing-sheds.	

(1.) *Interpretation.*

Interpretation.
1894, No 31, s. 2.

4. In this Act, unless inconsistent with the context,—
"Board" means the Local Board of Health constituted under "The Public Health Act, 1876," having jurisdiction 30

tion in the borough, or county, or the town district where any factory is situated :

“ Factory ” means—

5 (1.) Any building, enclosure, or place in which two or more persons are employed, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale, and includes (whatever the number of persons employed therein)— 1894, No. 31, s. 2, altered.

10 (2.) Every bakehouse (meaning thereby any building or place in which any article of food is baked for sale, hire, or reward, for human consumption); and also

(3.) Every building, enclosure, or place in which steam or other mechanical power or appliance is used for the purpose of preparing or manufacturing goods for trade or sale or packing them for transit; and also 1894, s. 2, altered.

15 (4.) Every building, enclosure, or place in which any person of the Chinese race is directly or indirectly employed in laundry-work, or any other handicraft, or in preparing or manufacturing goods for trade or sale, or in packing them for transit:

20 “ Inspector ” means any Inspector of Factories appointed under this Act: 1894, s. 2.

“ Medical authority ” means any legally-qualified medical practitioner appointed as a medical authority under this Act:

25 “ Minister ” means the Minister for Labour:

“ Occupier ” means the person occupying any building, enclosure, or place used or intended to be used as a factory, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a factory; and 1894, s. 2, altered.

30 In factories occupied by a body of persons, corporate or unincorporate, the working manager shall also be deemed to be included in the term “ occupier : ”

35 “ Person ” includes a body of persons, corporate or unincorporate:

“ Prescribed ” means prescribed by regulations:

“ Privy ” includes water-closet, earth-closet, and urinal:

40 “ Regulations ” means regulations from time to time in force under this Act: 1894, s. 2.

“ This Act ” includes regulations under this Act:

1894, s. 2.

5. Where the operations of a factory are carried on in several adjacent buildings, enclosures, or places, all of them shall be included as one and the same factory, notwithstanding that they may in fact be separated or intersected by a road, street, or stream, or by any building, enclosure, place, or space not forming part of the factory. Adjacent buildings included in factory. 1894, ss. 2, 77.

6. In counting for any of the purposes of this Act the number of persons employed in a factory, the occupier, or, if the occupier is married, then the occupier together with husband or wife, as the case may be, shall be considered as one person so employed. Mode of computing persons employed in factory. 1894, s. 2.

(2.) *Districts, Inspectors, and Medical Authorities.*

Governor may constitute districts.
1894, s. 4.

7. For the purposes of this Act the Governor may from time to time, by notice in the *Gazette*, constitute and divide New Zealand or any portions thereof into such districts, with such names and boundaries, as he thinks fit.

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Alteration of boundaries.
Ibid.

8. In any case where a district under this Act is constituted by reference to the boundaries of any portion of the colony defined or constituted by any other Act, any alteration of such boundaries shall take effect in respect of the district without further proceeding, unless the Governor otherwise determines.

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Inspectors may be appointed.
1894, s. 5.

9. (1.) The Governor may from time to time appoint fit persons of either sex (whether qualified to be members of the Civil Service or not) to be Inspectors of Factories under this Act, and may assign one or more districts to one or more Inspectors ;

(2.) Except as to appointment, every Inspector shall be subject to the laws and regulations affecting the Civil Service of the colony.

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Inspectors may hold office with other offices.
Ibid.

10. Any Inspector may hold office as Inspector under this Act in conjunction with any other office or employment which the Governor deems not incompatible with his duties under this Act.

Chief Inspector.
Ibid.

11. The Governor may from time to time appoint a fit person to be Chief Inspector, who shall have and may exercise in every part of the colony all the powers and authorities conferred upon Inspectors.

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Governor may appoint medical authorities.
1894, s. 6.

12. The Governor may, from time to time,—

(1.) Appoint any persons, being legally-qualified medical practitioners, to be medical authorities for the purposes of this Act ; and also

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(2.) Assign one or more districts to one or more medical authorities ; and also

(3.) By regulations gazetted, fix a scale of fees to be charged by and paid to medical authorities.

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Medical authority not a Civil servant.
1894, s. 7.

13. A medical authority appointed under this Act shall not, by reason of such appointment, be deemed to be in the Civil Service of the colony.

References to Inspector or medical authority.

14. (1.) Whenever in the subsequent sections of this Act reference is made to any Inspector, medical authority, or other officer under this Act, the reference shall, unless inconsistent with the context, be deemed to be to the officer appointed for or acting in the district in which the subject-matter of the reference arises or occurs.

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(2.) The fact of any such officer exercising any of his functions under this Act in any district shall be sufficient evidence of his authority so to do.

(3.) *Inspection.*

Powers of Inspectors.
1894, s. 14.

15. Every Inspector shall have power to do all or any of the following things, that is to say,—

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(1.) To enter, inspect, and examine at all reasonable hours, by day and night, a factory, 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 to be a factory ;

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- (2.) To take with him in either case a constable to assist him in the execution of his duty ;
- (3.) To require the production of the certificate of registration held by the occupier of any factory, or any book, notice, record, list, notice, or document which the occupier of a factory is by this Act required to keep or exhibit therein, and to inspect, examine, and copy the same ;
- (4.) To make such examination and inquiry as he deems necessary in order to ascertain whether the provisions of this Act, or of any Act relating to the public health, are complied with, so far as respects any factory, or the persons employed therein ;
- (5.) To examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory, and to require such person to make and sign a declaration under "The Justices of the Peace Act, 1882," of the matters respecting which he is so examined :

Provided that, on any examination or inquiry by an Inspector, no person shall be required under this or the *two last preceding* subsections hereof to answer any question tending to criminate himself; and

- (6.) To exercise such other powers and authorities as may be necessary for carrying this Act into effect.

16. (1.) The occupier of a factory, his agents and servants, shall at all times furnish the means required by an Inspector, or by an officer of the Board, for any entry, inspection, examination, and inquiry, or the exercise of his powers under this Act or any enactment relating to the public health, in relation to the factory.

Occupiers to allow entry and inspection.
1894, s. 15, altered.

(2.) Except for the purposes of this Act and the exercise of his functions under this Act, an Inspector shall not disclose to any person any information which, in the exercise of such functions, he acquires respecting any factory.

Ibid., s. 24, altered.

17. Every person who—

- (1.) Delays an Inspector in the exercise of any of his powers or duties under this Act; or
- (2.) Fails to comply with a requisition of an Inspector made under any such power, or to produce any certificate of registration, book, record, certificate, notice, list, or document which he is required by this Act to produce; or
- (3.) Conceals or prevents, or attempts to conceal or prevent, any person from appearing before or being examined by an Inspector—

Obstruction of Inspector.
Ibid., s. 16.

shall be deemed to obstruct an Inspector in the execution of his duties under this Act.

18. Where an Inspector is obstructed in the execution of his duties under this Act, the person obstructing him shall be liable to a penalty not exceeding *five* pounds; and, where an Inspector is so obstructed in or about a factory, the occupier thereof shall be liable to a penalty not exceeding *five* pounds, or, when the offence is committed at night, not exceeding *twenty* pounds.

Penalty for obstruction.
Ibid., s. 17.

Inspector to have certificate of appointment. 1894, s. 18.

19. (1.) Every Inspector shall be furnished with a certificate of his appointment in the prescribed form, and on applying for admission to a factory he shall, if required, produce such certificate to the occupier.

Penalty for forging. Ibid, s. 19.

(2.) 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, shall be liable to imprisonment with hard labour for any term not exceeding *six* months. 5

(4.) *Registration of Factories.* 10

Factory not to be used until registered.

20. (1.) Except as hereinafter specially provided, it shall not be lawful for any person to occupy or use as a factory any building, enclosure, or place, unless the same is duly registered as a factory under this Act.

(2.) Except as hereinafter specially provided, the occupier of a factory shall be liable to a penalty not exceeding *five* pounds for every day during which the factory is unregistered. 15

Particulars to be specified in application. Ibid, s. 9, altered.

21. The application for registration shall be made in writing in the prescribed form to the Inspector, by or on behalf of the occupier or intending occupier, and shall specify— 20

- (1.) The name and situation of the intended factory ;
- (2.) The nature of the work to be carried on therein, and of the motive power, if any, to be used therein ;
- (3.) The maximum number of persons to be employed therein ;
- (4.) The full names of the occupier or intended occupier thereof ; 25
- (5.) The name or style under which the business of the factory is to be carried on ;
- (6.) Such other particulars as are prescribed.

Complete plan to be furnished. Ibid, s. 10, altered.

22. In addition to his application, the applicant shall also deliver to the Inspector a complete plan of the intended factory, to the Inspector's satisfaction : 30

Provided that in any case where a complete and satisfactory plan has been delivered to the Inspector in connection with any previous application for registration of the same factory, it shall be sufficient if, in lieu of delivering a fresh plan, the applicant refers the Inspector to the previous one. 35

Inspector to examine intended factory.

23. As soon as practicable after receipt of the application, the Inspector shall examine the intended factory in order to satisfy himself that it is suitable for the purpose for which it is to be used, and also that it is in accordance with the plan. 40

Inspector may require defects to be remedied. Ibid, s. 13.

24. If the Inspector is of opinion that the intended factory or the plan thereof is defective in any respect, he shall, by requisition in writing served on the applicant, specify the defects, and inform him that the intended factory will not be registered until the defects are remedied to the Inspector's satisfaction. 45

Appeal to Board from such requisition.

25. (1.) If the applicant is dissatisfied with the requirements of the Inspector as specified in such requisition, he may appeal to the Board, and the decision of the Board shall be final and conclusive. 50

(2.) With respect to such requisition and appeal, the provisions of section *seventy-five* hereof shall, *mutatis mutandis*, apply in like manner as if the applicant were the occupier of a factory and the Board were the Stipendiary Magistrate.

5 26. If, having due regard to the Board's decision on any such appeal as aforesaid, the Inspector is satisfied that the requirements of this Act, in so far as they relate to the intended factory, have been duly complied with, he shall, upon payment of the registration-fee as hereinafter provided, register the factory, and issue to
10 the applicant a certificate of registration.

Inspector, if satisfied, may register factory.

1894, ss. 11, 13, altered.

10 27. The registration shall be effected by entering in a register to be kept for the purpose such particulars relating to the factory as are prescribed.

Mode of registration.

15 form. 28. The certificate of registration shall be in the prescribed

Certificate of registration.

29. The registration-fee shall be computed according to the following scale, based on the maximum number of persons to be employed in the factory, as specified in the application :—

Registration-fee. Ibid, s. 12 and First Schedule.

20 Two pounds two shillings where such number exceeds thirty.
One pound one shilling where such number exceeds fifteen but does not exceed thirty.

Ten shillings where such number exceeds eight but does not exceed fifteen.

25 Five shillings where such number exceeds three but does not exceed eight.

One shilling where such number does not exceed three.

30 30. In any case where, during the currency of the registration, the number of persons employed in the factory is so increased as to exceed the number on which the registration-fee has been based and paid, the occupier of the factory shall within seven days thereafter give written notice thereof to the Inspector, and pay the difference in value between the registration-fee already paid and the fee that would have been payable if based and computed on such increased number.

Increased fee payable if employes increased.

Ibid, s. 12.

35 31. The registration shall continue in force until the close of the last day of December in the year in which the registration is effected, but no longer :

Duration of registration.

40 Provided, however, that in any case where the occupier of a registered factory desires the factory to be registered afresh for the next ensuing year the following special provisions shall apply :—

Renewal of registration.

45 (1.) His application for registration shall be made in manner hereinbefore provided before the expiration of the current year, or within the first twenty-one days of January in the next ensuing year, and shall be accompanied by the registration-fee.

(2.) If the registration is effected after the commencement of such ensuing year it shall relate back to the commencement of the year.

50 (3.) If the registration is finally refused, the registration-fee shall not be refunded, but the occupier shall not be liable as for using an unregistered factory if he ceases to use the same on and after the expiration of the seventh day

Period allowed for
resh registration.

after being served with written notice from the Inspector of such final refusal.

(4.) Such notice may be served in the same manner as in the case of a requisition.

32. In order to enable the occupier of a registered factory to avail himself of the foregoing provisions for the fresh registration thereof, no proceeding to recover any penalty for using his un-registered factory during any part of the period of twenty-one days next following the expiry of the registration thereof shall be taken against him until after the close of such period.

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(5.) *Records and Notices in Factories.*

Records to be kept
in factory.
1894, s. 20.

33. In each factory the occupier shall at all times keep or cause to be kept a record, showing with substantial correctness,—

(1.) The names of all persons employed in the factory, together with the respective ages of all persons employed therein who are under twenty years of age;

(2.) The kind of work of each and every person employed in the factory;

(3.) The earnings paid per week of each person employed in the factory; and

(4.) Such other particulars as are prescribed.

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Notices to be
exhibited and
maintained.
Ibid, s. 21.

34. The occupier of a factory shall also at all times cause to be exhibited and maintained in some conspicuous place at or near the entrance of the factory, and in such other parts thereof as the Inspector from time to time directs, and in such a position as to be easily read by the persons employed in the factory, a notice containing—

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- (1.) The name and address of the Inspector for the district;
- (2.) The name and address of the medical authority for the district;
- (3.) The official address of the Board;
- (4.) The holidays and the working-hours of the factory; and
- (5.) Such other particulars as are prescribed.

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Penalty for default
herein.
Ibid, s. 22.

35. If the occupier of a factory makes default in faithfully complying with any of the provisions of the *two last preceding* sections hereof, he shall be liable to a penalty not exceeding *two* pounds for every day such default occurs after the lapse of seven days from the date on which the factory was first registered.

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(6.) *“Sweating” in Factories.*

Provisions to be
observed when work
given out to be done
elsewhere than in
factory.
Ibid, s. 23.

36. For the better suppression of what is commonly known as the “sweating evil,” the following provisions shall apply in every case where the occupier of a factory lets or gives out work of any description in connection with textile or shoddy material, to be done by any person elsewhere than in the factory:—

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- (1.) The occupier of the factory shall at all times keep or cause to be kept a record showing with substantial correctness—

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(a.) The full name and address of each such person, and the situation of the place where he does the work;

(b.) The quantity and description of the work done by each such person ; and

(c.) The nature and amount of the remuneration paid to him therefor.

- 5 (2.) If the work is done elsewhere than in a registered factory, the occupier of the factory by whom the work was let or given out shall cause to be affixed to each garment or other article upon which the work has been done, a label in the prescribed form, and if he makes default in so doing, he shall be liable to a penalty not exceeding *one* pound for each article in respect whereof the default is made.
- 10 (3.) Every person who knowingly sells or exposes for sale any such article to which the appropriate label is not affixed shall be liable to a penalty not exceeding *ten* pounds.
- 15 (4.) Every person who wilfully removes from any such article the appropriate label before sale shall be liable to a penalty not exceeding *twenty* pounds.
- 20 (5.) If the person to whom the work is let or given out as aforesaid,—
- (d.) Directly or indirectly sublets the work or any part thereof, whether by way of piecework or otherwise ; or
- (e.) Does the work or any part thereof otherwise than on his own premises, and by himself or his own workpeople to whom he himself pays wages therefor,— that person commits an offence, and shall be liable to a penalty not exceeding *ten* pounds for each such offence.
- 25 (6.) If the occupier of the factory by whom the work is let or given out as aforesaid knowingly permits or suffers any such offence as aforesaid to be committed, he shall be liable to a penalty not exceeding *fifty* pounds.
- 30 (7.) In any proceedings under this section against the occupier of a factory, the knowledge of his servants or agents shall be deemed to be his knowledge.

35 37. For all the purposes of the *last preceding* section hereof every merchant, wholesale dealer, shopkeeper, agent, or distributor who lets or gives out textile or shoddy material to be made up into garments or other articles for sale, shall be deemed to do so as the occupier of a factory, and the provisions, obligations, and penalties of

40 that section shall extend and apply accordingly.

38. For the further suppression of the sweating evil, but without in any way limiting the operation of the *two last preceding* sections hereof, the following special provisions shall apply in the case of every factory :—

- 45 (1.) If any person employed in a factory does any work for the factory elsewhere than in the factory, the occupier commits an offence, and shall be liable to a penalty not exceeding *ten* pounds for each such offence.
- 50 (2.) The person who, being employed in the factory, does such work elsewhere than in the factory also commits an offence, and shall be liable to a penalty not exceeding *five* pounds for each such offence.

1894, s. 23 and
Second Schedule.

1896, s. 2.

Certain persons
giving out work
deemed occupiers
of factories.
1894, s. 23.

Penalty when work
done by employes
elsewhere than in
factories.
1896, s. 5.

(7.) *Accidents in Factories.*

Rules to be observed
to prevent accidents
from machinery.
1894, s. 27, altered.

39. For the better prevention of accidents the following rules shall at all times be observed in a factory in which machinery is used :—

- (1.) When belts or pulleys are used, the factory shall be furnished with belt-shifters or other safe mechanical contrivances for the purpose of throwing the belts and pulleys on and off, and wherever practicable loose pulleys shall be provided. 5
- (2.) All vats, pans, saws, planers, cogs, gearing, belting, shafting, set-screws, and other dangerous appliances shall be fenced off or otherwise supplied with efficient safeguards. 10
- (3.) The safeguard shall not be removed whilst the appliance to which it relates is in use, unless for the purpose of making immediate repairs, and in such case the safeguard shall be replaced as soon as the repairs are effected ; 15
- (4.) If the Inspector considers any appliance to be unsafe he may prohibit its use by affixing to it a notice under his hand containing the words, "The use of this [*name of the appliance*] is prohibited, as being unsafe." 20
- (5.) Such notice shall not be removed except by the Inspector, nor until he is satisfied that the appliance has been rendered safe, and until the notice is removed by him the appliance shall not be used. 25
- (6.) Without limiting the operation of the foregoing rules, the Inspector may, by requisition to the occupier, require the occupier to repair or safeguard any specified appliance, or to remedy any specified defect in the machinery. 30
- (7.) Every engine or boiler whose motive-power is steam, gas, oil, electricity, or compressed air and exceeds *five* horsepower shall at all times whilst being used in a factory be in charge of a driver holding an engine-driver's certificate under "The Inspection of Machinery Act, 1882." 35

Penalty for default.
Ibid, s. 27.

40. If in any factory default is made in faithfully observing any rule specified in the *last preceding* section hereof, the occupier of the factory shall be liable to a penalty not exceeding *ten* pounds ; and, if the default is continued after the day on which it first occurs, then to a further penalty not exceeding *two* pounds for the second and each succeeding day during which the default continues. 40

Penalty for death or
injury through
default of occupier.
Ibid, s. 28, altered.

41. If, in consequence of any such default as aforesaid, an accident occurs, causing death or bodily injury to any person, then, in addition to the occupier's liability under the *last preceding* section hereof, he shall be liable to a penalty not exceeding *one hundred* pounds, the whole or any part of which may, in such manner as the Minister directs, be applied for the benefit of the person injured, or of his family or dependents, if he has been killed : Provided, nevertheless, as follows :— 45

Limitation.

- (1.) The penalty imposed by this section shall be deemed to be in lieu of any penalty imposed by "The Inspection of 50

Machinery Act, 1882," in respect of the corresponding default under that Act.

(2.) The occupier shall not be liable under this section if proceedings under the *last preceding* section hereof to recover the penalty thereby imposed in respect of the default have been taken and dismissed on the merits within one month before the accident occurred.

(3.) Nothing in this section contained shall operate to in any way relieve the occupier from any liability which independently of this Act he may incur for damage or compensation in respect of the accident or its consequences.

42. In every case where there occurs in a factory an accident causing death or bodily injury to any person employed therein the following provisions shall apply :—

Procedure in case of accident or bodily injury.
1894, ss. 29, 30.

(1.) The occupier shall forthwith serve the Inspector and also the medical authority with written notice specifying the nature of the accident, the name and residence of the person killed or injured, and the place, if any, to which he has been removed.

(2.) If the notice is not duly served as aforesaid within twenty-four hours after the accident occurred the occupier shall be liable to a penalty not exceeding *ten* pounds.

(3.) As soon as practicable after receiving the notice the medical authority, and also the Inspector, shall proceed to the factory and make full inquiry into the cause and nature of the accident, and the nature and extent of the injuries.

(4.) Within twenty-four hours after making such inquiry the medical authority shall send a written report thereof to the Inspector.

(5.) For the purpose of such inquiry the medical authority shall have all the powers of entry, investigation, examination, and otherwise which by this Act are conferred upon an Inspector, and may exercise the same not only at the factory, but also in any room, building, or place to which the person killed or injured may have been removed.

(6.) In respect of each accident inquired into and reported on by the medical authority he shall be entitled to receive from the Board such fee as is prescribed by regulations under this Act.

(7.) For the purposes of this section the expression "serious bodily injury" means an injury which is likely to incapacitate the sufferer from work for at least forty-eight hours.

(8.) *Sanitation of Factories.*

43. For the better sanitation of factories the following rules shall at all times be observed in a factory :—

Sanitation rules.
Ibid, s. 31.

(1.) The factory shall be kept in a cleanly state, and free from any smell or leakage arising from any drain, privy, or other nuisance.

(2.) Sufficient privy accommodation shall be provided for all persons employed in the factory, and, where members

- of both sexes are employed, not being members of the same family, the accommodation shall be entirely separate for each sex, so as to insure privacy.
- 1894, s. 32. (3.) The factory shall not be overcrowded so as to be hurtful to the health of the persons employed therein. 5
- (4.) The factory shall be ventilated in such manner as to provide a sufficient supply of fresh air, and to carry off and render harmless, as far as practicable, all gases, fumes, dust, and other impurities arising in the course of the work carried on in the factory. 10
- Ibid, s. 41. (5.) Without limiting the operation of the *last preceding* subsection hereof, the Inspector may by requisition to the occupier require the occupier to supply fans or other efficient appliances to carry off and render harmless all such gases, fumes, dust, and other impurities. 15
- Ibid, s. 33. (6.) The Inspector may from time to time, by requisition to the occupier, determine as to the factory or any workroom therein what space of cubic or superficial feet shall be reserved for the use of each person working therein, and the occupier shall cause the same to be reserved accordingly. 20
- (7.) The space to be reserved as aforesaid shall not be deemed to be reserved unless it is kept properly lighted and ventilated, and clear from all materials, goods, or tools other than those actually used or required by the person for whom the space is to be reserved. 25
- Ibid, s. 32. (8.) A sufficient supply of fresh drinking-water shall be provided for the free use of the persons employed in the factory.
- Special sanitary rules for bake-houses. 44. In the case of every factory which is a bakehouse the following special rules shall at all times be observed:— 30
- Ibid, s. 47. (1.) Once at least within every *six* months all the inside walls, ceilings, and roofs of the factory, and of every room therein, and all the passages and staircases therein, shall be thoroughly cleansed with lime-wash, or with such other cleansing agent as is approved by the Inspector: 35
- Provided that if within the previous seven years they have been properly oil-painted with at least three coats of paint, or varnished with at least three coats of varnish, then soap and hot water may be used instead of lime-wash. 40
- (2.) For the purposes of the *last preceding* subsection hereof, the occupier shall furnish from time to time evidence to the satisfaction of the Inspector as to how and when the aforesaid portions of the factory and its rooms were cleansed, painted, or varnished as the case may be. 45
- Ibid, s. 48. (3.) A place on the same level with the bakehouse and forming part of the same building shall not be used as a sleeping place unless such place is effectually separated from the bakehouse by a partition extending from floor to ceiling, and is also fitted with an external glazed window, of at least nine superficial feet in area, of which at least four and half superficial feet are made open for ventilation. 50

(4.) A privy or ashpit shall not be suffered to exist within or to be connected directly with the bakehouse. 1894, s. 50.

(5.) For the purposes of the two *last preceding* subsections hereof, "bakehouse" means any room or part of the factory in which flour, bread, or other food products are kept or treated, or any baking or bread-making process is carried on.

(6.) Every cistern or pipe for supplying water to the factory shall be separate and distinct from any cistern or pipe for supplying water to a privy.

(7.) A drain or pipe for carrying off fœcal matter or sewage shall not have an opening within the factory.

45. (1.) If in any factory, being a bakehouse, default is made in faithfully observing any of the special rules prescribed by the *last preceding* section hereof, the occupier of the factory shall be liable to a penalty not exceeding *two* pounds on a first conviction, and not exceeding *five* pounds on any subsequent conviction for the same default. Penalties for defaults in respect of bakehouses.

(2.) If any person lets as a bakehouse, or suffers to be occupied or used as a bakehouse, any building or room with respect to which any of the provisions of subsection *four, six, or seven* of the *last preceding* section hereof are not duly complied with at the time when he so lets it or suffers it to be occupied or used as aforesaid, that person shall be liable to a penalty not exceeding *two* pounds, and to a further penalty not exceeding *ten* shillings for every day during which it is so occupied or used as aforesaid whilst such non-compliance continues. Ibid, ss. 50, 51.

46. The provisions of the *two last preceding* sections hereof shall, *mutatis mutandis*, extend and apply in the case of every factory wherein is carried on the manufacture, preparation, or treatment of any article of food for sale for human consumption. Provisions extended to factories manufacturing food.

47. The Minister may from time to time, by notice in the *Gazette*, extend in whole or in part, or with modifications as he thinks fit, the provisions of subsections *one and two* of section *forty-four* hereof to any other class or description of factory, and in such case those provisions shall extend and apply according to the tenor of the *Gazette* notice. Power to extend provisions as to lime-washing

48. (1.) If in any building, yard, or place adjoining a factory there exists any nuisance or other sanitary defect which, in the opinion of the Inspector, is likely to injuriously affect the proper sanitation of the factory or the health of the persons employed therein, he may, by requisition to the owner or occupier of such building, yard, or place, require him to effectually abate such nuisance or amend such defect within a time named in the requisition. Nuisance adjoining factory to be removed.

Ibid, s. 34, altered.

(2.) If such owner or occupier fails to duly and faithfully comply with such requisition he shall be liable to a penalty not exceeding *five* pounds for every day during which such non-compliance continues. Penalty.

(3.) The liability of such owner or occupier under this section shall be irrespective of his liability under any other Act:

Provided that he shall not be punished twice for the same offence.

(4.) The Inspector shall not issue such requisition until he has notified the Board of the nuisance or sanitary defect, nor unless the Board has failed or neglected to cause the nuisance or sanitary defect to be abated or amended within a reasonable time after receiving such notification. 5

Provisions to check spread of disease by infection or contagion.
1896, s. 4.

49. In order to check the risk of disease being spread by infection or contagion the following provisions shall apply :—

(1.) It shall not be lawful to manufacture or work up goods or materials, or to receive them for any such purpose, in any factory or dwelling-house— 10

(a.) Wherein to the knowledge of the occupier of such factory or dwelling-house there resides any person suffering from any infectious or contagious disease; or

(b.) Wherein any such person has so resided at any time during the previous fourteen days, unless and until the factory or dwelling-house, and all such goods and materials therein, have been disinfected to the satisfaction of the Inspector. 15

(2.) If any person commits or knowingly allows to be committed any breach of this section he shall be liable to a penalty not exceeding *ten* pounds. 20

(3.) If any such goods or materials are found to be or to have been in any factory or dwelling-house in breach of this section, the Inspector may cause them to be seized, removed, and disinfected at the expense in all things of the owner; and, on the summary application of the Inspector, any Stipendiary Magistrate may order them to be destroyed at the expense in all things of the owner. 25

(4.) The goods or materials to which such order relates shall be destroyed by the Inspector. 30

(5.) All expenses for which the owner is liable under this section shall be recoverable in a summary way, in like manner as in the case of a penalty.

(9.) *Fires in Factories.*

Rules to prevent accidents from fires.
1894, s. 38.

50. For the better prevention of fires, and of accidents resulting from fires, the following rules shall be observed in every factory in which work is carried on upon a floor situate more than one floor above the ground floor :— 35

Fire-escapes.

(1.) Efficient fire-escapes shall be provided for every work-room situate on any such first-mentioned floor. 40

(2.) The plan and system of fire-escape may be prescribed by regulations, and in so far as no such prescription is made the Inspector, if not satisfied with the plan or system adopted, may, by requisition to the occupier, direct another specified plan or system to be provided. 45

Doors to open outwards.

(3.) Every door, whether internal or external, shall be hung so as to open outwards.

Ibid, s. 39.

(4.) At all times whilst persons are actually working in a room, every door of the room or of any passage or staircase leading to the room, or serving as means of entrance or exit for the room, shall be kept clear and unfastened, so as to admit of quick and easy egress. 50

Ibid, s. 40 1896, s. 8.

(5.) The provisions of the two *last preceding* subsections hereof shall apply also to the outer or entrance door by which the persons employed in the factory usually enter or leave, whether such door belongs to the factory or not.

5 (6.) Staircases and steps leading from one floor to another, or to the ground, shall be provided with substantial handrails, and shall also, if the Inspector by requisition to the occupier so directs, be provided with slats or some other sufficient appliance to prevent slipping. 1894, s. 39.

10 (7.) If the Inspector considers any stairway or passage to be so steep, narrow, winding, intricate, insecure, or otherwise defective as to be unsafe, he may by requisition to the occupier direct the defect to be remedied.

(10.) *Restrictions as to Age of Persons employed in Factories.*

15 51. With respect to the employment of boys or girls the following rules shall be observed in every factory :— Restrictions as to age of boys or girls employed in certain factories.

(1.) A boy or girl under fourteen years of age shall not be employed except in special cases authorised in writing by the Inspector : 1894, s. 2; 1894, s. 56, altered.

20 Provided that such authorisation shall not be given in the case of a factory in which the total number of persons employed exceeds *three*.

(2.) A girl under fifteen years of age shall not be employed as type-setter in any printing-office. Ibid, s. 61.

25 (3.) A boy or girl under sixteen years of age shall not be employed in any room in which there is carried on— Ibid, s. 54 and Third Schedule.

(a.) Any dry-grinding in the metal trade, or
(b.) The dipping of lucifer matches.

(4.) A girl under sixteen years of age shall not be employed in any factory in which there is carried on—

(c.) The making or finishing of bricks or tiles, not being ornamental tiles ; or
(d.) The making or finishing of salt.

(5.) A girl under eighteen years of age shall not be employed in any room in which there is carried on—

(e.) The process of melting or annealing glass.

(6.) A boy or girl under eighteen years of age shall not be employed in any room in which there is carried on—

(f.) The silvering of mirrors by the mercurial process ; or

(g.) The making of white-lead.

30 52. Without limiting the foregoing restrictions as to the age of employment, the following rules shall be observed in every factory with respect to the employment of boys or girls under the age of six- Restrictions on employment of boys or girls under sixteen.

45 teen years :— 1894, ss. 58, 60.

(1.) A boy or girl under sixteen years of age shall not be employed in any factory unless the occupier thereof holds from the Inspector a certificate of fitness relating to the boy or girl.

- (2.) The occupier of the factory in which the boy or girl to whom the certificate of fitness relates is employed shall, on demand by the Inspector, produce to him the certificate.
- (3.) The occupier shall also deliver up the certificate to the Inspector as soon as the boy or girl ceases to be employed in the factory, and the Inspector shall hold it for re-issue as and when required for the purpose of the future employment of the boy or girl.

Certificate of fitness
as to such boys or
girls.
1894, s. 59.

53. With respect to every certificate of fitness the following provisions shall apply:—

- (1.) It shall be in the prescribed form, and may be obtained without fee:
- (2.) It shall specify the full name and age of the boy or girl to whom it relates, and the nature of the employment for which the boy or girl is fit:
- (3.) It may be expressed to apply either to one or more specified factories, or generally to all factories of any specified description or class in the district:
- (4.) It may at any time be extended by the Inspector to any other specified factory, or description or class of factories, in the district:
- (5.) Such extension may be effected by indorsement of the certificate:
- (6.) The certificate shall not be granted unless the Inspector is satisfied that the boy or girl to whom it relates is of the age specified therein, and is also fit for the employment, and also has passed the Fourth Standard examination under "The Education Act, 1877," or some equivalent examination:

Ibid, s. 57.

Provided that the educational requirement shall not apply in the case of a boy or girl whose age on arrival in the colony was over thirteen years, or who, by reason of having lived more than three miles from any available school, has, in the Inspector's opinion, had no reasonable opportunity of complying with such requirement.

Ibid, s. 59.

- (7.) Evidence as to age may be given by production of a certificate of birth (which, for the purposes of this section, the Registrar of Births shall supply to the Inspector without fee), or by a statutory declaration made by any person competent to depose to the fact.
- (8.) Evidence as to fitness for employment may be given by statutory declaration, or in such other form as the Inspector thinks fit.
- (9.) Every statutory declaration under this section shall be exempt from stamp duty.
- (10.) The certificate of fitness shall not operate to limit or remove any of the restrictions or conditions imposed by the Act in respect of the employment of boys or girls.
- (11.) The Inspector shall keep a register of all certificates of fitness issued by him.

54. In order to prevent boys or girls under the age of eighteen years being employed in factories without reasonable remuneration in money, the following special provisions shall apply:—

Provisions to secure reasonable remuneration to boys or girls under eighteen. 1899, No. 11.

- 5 (1.) Every boy or girl under the age of eighteen years who is employed in any capacity in a factory shall be entitled to receive from the occupier payment for the work at such rate as is agreed on, being in no case less than four shillings per week for girls and five shillings per week for boys, irrespective of overtime.
- 10 (2.) Such payment shall be made at weekly or such other intervals as are agreed on, being in no case longer than fortnightly intervals.
- 15 (3.) If the occupier makes default for fourteen days in the full and punctual payment of any money payable by him as aforesaid, he shall be liable to a penalty not exceeding five shillings for every day thereafter during which such default continues.
- 20 (4.) Without affecting the other civil remedies for the recovery of money payable under this section to a boy or girl, civil proceedings for the recovery thereof may be taken by any Inspector in the name and on behalf of the boy or girl entitled to payment, in any case where the Inspector is satisfied that default in payment has been made.
- 25 (5.) No premium in respect of the employment of the boy or girl shall be paid to or be received by the occupier, whether such premium is paid by the boy or girl employed or by some other person; and if the occupier is guilty of any breach of the provisions of this subsection he shall be liable to a penalty not exceeding ten pounds.
- 30 (6.) In any case where any premium has been paid or received in breach of the *last preceding* subsection hereof, or where the occupier has made any deduction from wages, or received from the boy or girl, or from any person on behalf of the boy or girl, any sum in respect of such premium or employment, then, irrespective of any penalty to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the occupier in civil proceedings instituted by any Inspector in the name and on behalf of the boy or girl concerned.

40 (11.) *Restrictions as to Hours of Work in Factories.*

55. Without affecting the foregoing restrictions as to the employment of boys or girls, the following rules shall be observed with respect to the hours of work in factories in the case of women, girls, or boys:—

Rules as to hours of work of women, girls, or boys. 1894, ss. 54, 55.

- 45 (1.) In the case of women or girls, of whatever age, their hours for commencing and ceasing work shall be so adjusted as that all women and girls employed in the factory shall cease work at one and the same time.
- 50 (2.) A woman or girl, whatever her age, shall not be employed for more than eight hours in any one day, nor for more

than forty-five hours in any one week, nor at any time between the hours of six o'clock in the evening and eight o'clock in the morning :

Provided that, with the written consent of the Inspector, seven o'clock in the morning may, during such summer months as are specified in such consent, be substituted in lieu of eight o'clock in the morning. 5

(3.) A boy under sixteen years of age shall not be employed for more than forty-eight hours in any one week nor at any time between the hours of six o'clock in the evening and a quarter to eight o'clock in the morning. 10

(4.) In order to prevent any evasion or avoidance of the foregoing limits of working-hours, all work done by the woman, girl, or boy for the occupier elsewhere than in the factory (whether the work is or is not connected with the business of the factory) shall be deemed to be done whilst employed in the factory, and the time shall be counted accordingly. 15

56. The limit of working-hours prescribed by the *last preceding* section hereof may be exceeded in the cases and subject to the conditions following, that is to say :— 20

(1.) With the written consent of the Inspector any person to whom the limit applies, and who is not less than *sixteen* years of age, may be employed on overtime for not more than three hours in any day on not more than twenty-eight days in any consecutive period of twelve months : 25

Provided that in no case during any consecutive period of twelve months shall any person be employed on overtime under this section on more than two consecutive days. 30

(2.) The occupier who desires to obtain the Inspector's consent shall make written application therefor. 30

(3.) The application shall specify the name and sex of each person to be employed on overtime, and the proposed days and hours of such employment. 35

(4.) The Inspector shall not consent to the application until he has satisfied himself that the overtime will not be hurtful to the health of the person to be employed thereon.

(5.) The consent, if given, shall be given in writing under the hand of the Inspector, and shall specify the full name of each person to whom it applies, together with the hours and days during which such person may be employed on overtime. 40

(6.) The occupier shall cause the consent to be affixed in some conspicuous place in the workroom in which any person is employed on overtime, and shall there maintain the same for the whole of the period to which the consent relates. 45

(7.) Every person who is employed on overtime under this section shall be paid therefor at half as much again as the ordinary rate : 50

Provided that when the ordinary rate is by time, and not by piece-work, the overtime rate shall not be less than sixpence per hour.

Conditions under which limit of working-hours may be exceeded. 1894, s. 55.

57. (1.) In order to prevent the limit of overtime being exceeded, the Inspector shall, in the case of each factory, keep a list showing the name of every person who, pursuant to such consent as aforesaid, is authorised to be employed on overtime, and shall note against each name the days, dates, and hours of overtime covered by such consent, and the total days, dates, and hours of overtime consented to during the twelve months.

Inspector to keep list of overtime. 1894, s. 55.

(2.) In any proceedings under this Act against the occupier such list shall be *prima facie* evidence of the matters set forth therein.

(12.) *Special as to Chinese.*

58. The provisions of the *three last preceding* sections hereof shall in the case of persons of the Chinese race who are employed in a factory, extend and apply to every such person in like manner *mutatis mutandis* as they apply in the case of women and girls; and for the purposes of this section the Chinese occupier, or, if there are more than one, then each Chinese occupier, shall be deemed to be employed in the factory.

Special provisions as to hours of work of Chinese.

(13.) *Other Restrictions as to Factories.*

59. With respect to the employment of women, girls, or boys, the following rules shall be observed in every factory:—

Restrictions as to deductions from wages, wet spinning, &c.

(1.) In the case of a woman, or of a girl or boy under the age of eighteen years, the occupier of the factory shall not be entitled to make any deduction, set-off, or counter-claim against a claim for wages or other remuneration for work actually done, except to the extent of the special damage (if any) which he proves that he has suffered by reason of the unlawful act or default of the claimant in leaving the employment or being absent from the employment after the work was actually done as aforesaid.

Ibid, s. 62.

(2.) Neither a woman nor girl, whatever her age, nor a boy under the age of eighteen years, shall be employed in any factory in which wet spinning is carried on, unless full and satisfactory provision is made to protect each of them from being wetted, and, where hot water is used, to prevent the escape of steam into any room in which any of them are employed.

Ibid, s. 42.

(3.) A woman shall not be employed in any factory during the four weeks immediately after her confinement.

Ibid, s. 54.

60. With respect to the meals and meal-times of women, girls, or boys, the following rules shall be observed in every factory:—

Rules as to meals and meal-times.

(1.) Neither a woman nor girl, whatever her age, nor a boy under the age of eighteen years, shall, except on half-holidays, be employed continuously for more than four and a half hours without an interval of at least half an hour for a meal.

Ibid, s. 43.

(2.) Neither a woman nor girl, whatever her age, nor a boy under the age of sixteen years, shall be permitted to take any meal in any room in which any handicraft or manufacturing process is being or within the previous two hours has been carried on, or any person is or during the previous two hours has been engaged in work:

Ibid, s. 44.

Provided that the Inspector, by writing under his hand, may exempt from the operation of this subsection any factory which he is satisfied should be exempted, having regard to its ventilation and construction, the nature of the work carried on therein, and the number of persons employed therein. 5

- (3.) A woman, girl, or boy who under this Act is entitled to an interval for meals shall not be permitted to do any work or to remain in any workroom during such interval.
- (4.) In every case where not less than *four* women or young persons under sixteen years of age are employed in the factory, the occupier shall provide a fit and proper room in which they may take their meals: 10

1894, s. 45.

Provided that the Inspector may authorise a place of shelter, other than a room, to be used under this subsection, if satisfied that it is reasonably sufficient for the purpose, and is sufficiently secure from the weather and from public view. 15

- (5.) Every room or place of shelter used under the *last preceding* subsection hereof shall be furnished by the occupier to the Inspector's satisfaction with seats and tables, so as to permit of the meals being taken with reasonable comfort and security. 20

Meals not to be taken in room where noxious process carried on. Ibid, s. 46.

61. (1.) The Governor may from time to time declare any specified handicraft, process, or employment to be noxious within the meaning of this section. 25

(2.) In every case where, in a factory, any such noxious handicraft, process, or employment is carried on, no person employed in the factory shall be permitted to take any meal in any room or place in which such noxious handicraft, process, or employment is being or during any previous part of the day has been carried on, anything in the *last preceding* section hereof to the contrary notwithstanding. 30

(14.) *Holidays in Factories.*

What holidays to be allowed without deduction from wages. Ibid, s. 63.

62. Except as provided by the *next succeeding* section hereof, the occupier of a factory shall allow to every woman or girl, whatever her age, and to every boy under the age of eighteen years, employed in the factory as wage-earners, the following holidays, without deduction from wages, that is to say,— 35

- (1.) A whole holiday on every Christmas Day, New Year's Day, Good Friday, Easter Monday, Labour Day, and birthday of the reigning Sovereign: 40

Provided that when Christmas Day, New Year's Day, or the birthday of the reigning Sovereign falls on a Sunday, then the whole holiday shall be allowed on the next ensuing Monday; and also 45

- (2.) A half-holiday on every Saturday from the hour of one of the clock in the afternoon: Provided nevertheless as follows:—

(a.) In any borough or town district in which Saturday is found to be an inconvenient day for the half-holiday, the Council or Town Board may from 50

time to time, by special order, substitute another working-day in the week for the half-holiday in lieu of Saturday;

(b.) Such substituted working-day may, according to the tenor of the special order, be either the same for all factories in the borough or town district, or different for different classes or descriptions of factories;

(c.) So long as such special order continues in force the half-holiday to be allowed under this section shall, according to the tenor of the special order, be deemed to be a half-holiday from the hour of one of the clock in the afternoon of the working-day specified in the special order, in lieu of Saturday.

63. Nothing in the *last preceding* section hereof shall be deemed,—

Exceptions as to
newspapers and fish-
and jam-factories.
1894, s. 63.

(1.) To prevent any person being employed in a printing office up to the hour of half-past four of the clock in the afternoon of the half-holiday for the purpose of printing or publishing an evening newspaper; nor

(2.) To prevent the substitution of other working-days as whole holidays in lieu of Easter Monday and the Sovereign's birthday, in the case of persons employed as type-setters, being women or girls over eighteen years of age; nor

(3.) To prevent any boy being employed on the half-holiday in the publishing or delivering of a newspaper; nor

(4.) To prevent any person being employed in a fish-preserving factory or a jam factory on the half-holiday for eight weeks during the preserving season as fixed by the Inspector.

64. (1.) Wages for each whole or half-holiday shall in the case of each wage-earner be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day thereafter.

Wages payable to
wage-earners for
holidays.
Ibid, s. 63.

(2.) For the purposes of this section "wage-earner," with respect to any specified whole holiday or half-holiday, means any person who is paid by time-wages, whatever the time, and has been employed in the factory for at least twenty days during the *six* months next preceding the whole holiday, or for at least five days during the month next preceding the half-holiday, whether such employment has been on consecutive days or not, and whether the wage-earner has been continuously in the service of the occupier or not.

(3.) For the purposes of this section "newspaper" means a paper containing public news, printed for sale and published in New Zealand periodically, or in parts or numbers at intervals not exceeding twenty-six days between one publication and the next.

(15.) *Offences, Penalties, and Procedure.*

65. In every case where by or under this Act—

(1.) Any rule is required to be observed in a factory; or

(2.) Any requisition of an Inspector is served on the occupier of a factory; or

(3.) Any requirement, obligation, or provision is imposed or enacted with respect to a factory, the conduct of its business, the treatment of the persons employed therein, or otherwise howsoever,—

Rules and require-
ments of Act to be
complied with.

it shall be the duty of the occupier to cause each such rule, requisition, requirement, obligation, or provision to be faithfully observed and complied with, and if he fails or neglects so to do he commits an offence.

Offences as to certificates and other documents. 1894, ss. 70, 71.

66. If any person—

- (1.) Forges, counterfeits, or fraudulently alters any certificate, consent, notice, or other document which an Inspector is authorised to give or issue under this Act; or
- (2.) Uses any such document knowing the same to be forged, counterfeited, or fraudulently altered; or
- (3.) Personates any one named in any such document; or
- (4.) Wilfully makes any false entry in any register, record, notice, or book required or authorised under this Act; or
- (5.) Gives, or issues, or uses any certificate, consent, notice, or other document under this Act knowing the same to be untrue in any material particular,—

that person commits an offence, and for each such offence shall, if no specific penalty is hereinbefore provided, be liable to a penalty not exceeding *twenty* pounds, or to imprisonment with or without hard labour for not more than *three* months.

Penalty on parent if young person employed in breach of Act.

Ibid, s. 67.

67. In every case where a person under eighteen years of age is employed in a factory in breach of this Act, then, irrespective of the penalty to which the occupier of the factory thereby exposes himself, the parent of the person so employed commits an offence, and shall be liable to a penalty not exceeding *five* pounds for such offence and to a further penalty not exceeding *one* pound for each day during which such offence continues, unless he satisfies the Court that the offence was committed without his consent, connivance, or default.

Penalty where no specific penalty provided.

Ibid, s. 65, altered.

68. If any person commits any offence against this Act for which no specific penalty is provided elsewhere than in this section, he shall be liable to a penalty not exceeding *ten* pounds for each such offence, and if the offence is a continuous one, then to a further penalty not exceeding *five* pounds for each day on which the offence is continued after the first day.

Proceedings to be before Magistrate alone.

Ibid, s. 64.

69. All proceedings in respect of offences against this Act shall be taken in a summary way on the information or complaint of an Inspector, and shall be heard before a Stipendiary Magistrate alone: Provided that where the occupier of a factory is charged with an offence, or is liable for an offence, the following special provisions shall apply:—

Occupier may have actual offender charged.

Ibid, ss. 72, 73.

- (1.) On the information of the occupier, made before the charge against himself is disposed of, any other person whom he alleges to be the actual offender may be brought before the Magistrate on the same charge, and, to enable both charges to be heard together, the charges against the occupier may be adjourned for such time as the Magistrate thinks reasonable.
- (2.) If the charges are heard together, and the offence is proved, but the Magistrate finds that it was committed in fact by the said other person, without the knowledge, consent, or connivance of the occupier, and, further, that the occupier

had done all that could reasonably be expected of him to prevent the offence, then the said other person shall be deemed to be liable, and shall be convicted, and not the occupier.

5 (3.) If, before proceeding against the occupier, the Inspector is satisfied of such other person's liability, he shall proceed first against him instead of against the occupier, where-
10 upon the provisions of the *last preceding* subsection hereof shall, *mutatis mutandis*, apply, and if such other person is convicted (but not otherwise) the occupier shall cease to be liable.

70. In any proceedings against the occupier of a factory for employing any person therein in breach of this Act, the fact of the person being found in any room in which the work of the factory is
15 going on shall be conclusive evidence that the person was then being employed in the room, unless the defendant satisfies the Court that the person was not being employed but was there either against the orders and without the knowledge, consent, or connivance of the occupier, or for the sole purpose of bringing food for persons
20 employed in the factory.

Evidence as to person employed in breach of Act. 1894, ss. 53, 77.

71. If, in any proceedings against any person for any offence against this Act, the defendant is the occupier of a factory, and the offence consists of the non-observance of any rule under this Act relating to sanitation, or to the prevention of accidents, the
25 following special provisions shall apply:—

Provisions where offence relates to sanitation or accidents.

(1.) The Magistrate, in addition or in lieu of imposing a penalty, may, by order, require the defendant to do any specified work, or to adopt any specified means for the purpose of preventing the further non-observance of the rule, and may specify a time within which the order shall be
30 obeyed.

(2.) The time so specified may be extended by the Magistrate on the application of the defendant.

(3.) If the order is made in lieu of imposing a penalty, then the Magistrate shall adjourn the proceedings until the expiry of the time specified in the order; and if the order is duly obeyed, he may, if he thinks fit so to do, impose no penalty in respect of the offence.

(4.) If default is made in duly obeying the order within the time or extended time specified in that behalf, the defendant commits an offence, and shall be liable to a penalty not exceeding *ten* pounds for every day during which such offence continues.

(5.) Such last-mentioned penalty shall be irrespective of the penalty in respect of the original offence.

72. The provisions of the *last-preceding* section hereof shall, *mutatis mutandis*, apply in the case of proceedings against an owner or occupier under section *forty-eight* hereof.

Similar provision to nuisances.

73. With respect to proceedings against any person for any
50 offence against this Act the following provisions shall apply:—

Procedure in respect to proceedings. *Ibid*, s. 75, altered.

(1.) The proceedings shall be commenced within two months after the offence was committed if the maximum penalty

does not exceed *ten* pounds, and within three months thereafter in any other case:

Provided that if the offence consists of non-compliance with the Inspector's requisition, and notice of appeal has been given, then the proceedings shall not be commenced, nor shall the aforesaid limit of time begin to run, until the appeal has been disposed of. 5

- (2.) The proceedings shall be deemed to be commenced when the information or complaint is laid or made.
- (3.) For the purposes of the aforesaid limit of time a continuing offence shall be deemed to be committed on the latest day on which it is continued next preceding the commencement of the proceedings. 10
- (4.) It shall be sufficient to allege that a factory is a factory without more. 15
- (5.) It shall be sufficient to state the name of the ostensible occupier of a factory, or the style or title under which the occupier is usually known or carries on business.
- (6.) It shall lie on the defendant to bring himself under any exemption, proviso, excuse, or qualification, and it shall not be necessary to negative the same in the information or complaint. 20

Civil liability to pay overtime or wages not affected.

74. The fact that an occupier is liable to a penalty under this Act for non-payment for overtime, or for non-payment of wages or salary in respect of a holiday, shall not relieve him from his civil liability to make the payment. 25

(16.) *Miscellaneous Provisions.*

Proceedings as to nuisances or sanitary defects may be taken under other Acts.

75. Where it appears to an Inspector that any nuisance or sanitary defect in or in relation to a factory may be more effectually remedied or dealt with under any enactment relating to the public health or to local government than under this Act, the following special provisions shall apply:— 30

1894, s. 34.

- (1.) He shall give notice of such nuisance or sanitary defect to the Board or local authority within whose jurisdiction the nuisance or defect exists, and it shall be the duty of such Board or local authority to take all necessary action under such enactment in order to effectually abate such nuisance or remedy such defect. 35

Ibid, s. 35.

- (2.) For the purposes of this Act, or of any such enactment as aforesaid, the Inspector may take with him into a factory any Health Officer, Inspector of Nuisances, surveyor, or other officer of the Board or of any local authority; and every such officer may at all reasonable times enter and inspect any factory. 40
- (3.) If any such officer is obstructed or hindered in the exercise of any of the powers conferred upon him by this section, the person obstructing or hindering him commits an offence. 45

Provisions as to requisitions by Inspector to occupiers.

76. With respect to requisitions under this Act by the Inspector to the occupier of a factory, the following provisions shall apply:— 50

- (1.) The requisition shall be in writing under the hand of the Inspector, and shall be addressed to and served on the occupier as first defined in section *four* hereof, under his usual business name or style.
- 5 (2.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the factory.
- (3.) The requisition, when served as aforesaid, shall bind every person who by section *four* hereof is included in the definition of "occupier."
- 10 (4.) If the occupier considers the requisition to be unreasonable he may appeal to the Stipendiary Magistrate, by filing in the Magistrate's Courthouse nearest to the factory, a notice of appeal in the prescribed form, setting forth with reasonable particularity the grounds of the appeal.
- (5.) The appeal shall be void unless the notice of appeal is duly filed as aforesaid within three days after service of the requisition.
- 20 (6.) Upon the notice of appeal being duly filed, the Magistrate shall fix a time for the hearing of the appeal, being the earliest convenient time, and the Clerk of the Court shall, by notice in the prescribed form, notify the appellant and the Inspector that the appeal will be heard by the Magistrate at the Courthouse at the time so fixed.
- 25 (7.) On the hearing of the appeal, the Magistrate may by order confirm, reverse, or modify the requisition as he thinks fit, and the order shall be final and binding on all parties.
- 30

77. The provisions of the *last preceding* section hereof shall, *mutatis mutandis*, apply in the case of every requisition to an owner or occupier under section *forty-eight* hereof.

To apply to requisitions as to nuisances.

35 78. Each Inspector shall, as and when prescribed by regulation or by the Minister, furnish to the Minister a local report in the prescribed form as to the operation of this Act in the district in which the Inspector has been acting.

Inspector to furnish local report.

40 79. From the local reports so furnished the Minister shall prepare an annual report for each year ending the thirty-first day of March, and lay the same before Parliament within *twenty-one* days after the close of such year if Parliament is then sitting, or, if not, then within *twenty-one* days after the commencement of the then next ensuing session thereof.

Minister to prepare annual report.

45 80. With respect to the Minister's annual report, the following provisions shall apply:—

Particulars to be given in Minister's report.

- (1.) It shall be general and comprehensive in character.
- (2.) It shall not refer by name to any person or factory, or be so framed as to readily admit of the same being identified.
- 50 (3.) It shall give general information as to the course and conditions of trade in so far as the same are disclosed or

influenced by the operation of this Act, and shall show as far as possible in respect of each description of industry,—

- (a.) The number of factories engaged there;
- (b.) The total number of persons employed, classifying them according to age, sex, average weekly earnings, whether by wages or piecework; 5
- (c.) The hours of labour;
- (d.) The percentage of work done respectively inside and outside factories;
- (e.) Such other particulars as are prescribed or as the Minister thinks fit. 10

Regulations.
1894, s. 79.

81. The Governor may from time to time make regulations for any purpose for which, in his opinion, they are contemplated or required by this Act, and in the regulations he may impose any penalty not exceeding *five* pounds for any breach thereof. 15

Date of coming
into force.

82. All such regulations shall come into force on the date of the gazetting thereof.

Application of fees
and penalties.
Ibid, s. 80.

83. All fees and penalties received under this Act shall be paid into the Public Account, and form part of the Consolidated Fund. 20

Salaries of
Inspectors and
expenses to be
appropriated.
Ibid, s. 81.

84. The salaries or remuneration of Inspectors, and all the other expenses of carrying out the provisions of this Act by the Government, shall be paid out of moneys from time to time appropriated for that purpose by Parliament.

Payment of expenses
of Boards or local
authorities.
Ibid, s. 82.

85. All moneys payable for carrying out such of the provisions of this Act as devolve upon Boards or local authorities shall be paid and borne out of the ordinary funds of such Boards or local authorities, as the case may be. 25

SCHEDULE.

Schedule.

- 1894, No. 31.—“The Factories Act, 1894.”
- 1896, No. 31.—“The Factories Act Amendment Act, 1896.”
- 1899, No. 11.—“The Employment of Boys or Girls without Payment Prevention Act, 1899.”