

[AS REPORTED FROM THE LABOUR BILLS COMMITTEE]

House of Representatives, 16 October 1956

Words struck out by the Labour Bills Committee are shown in italics within bold round brackets or in roman enclosed in panel; words inserted are shown in black within bold square brackets or in roman with rule down side.

Hon. Mr Sullivan

FACTORIES AMENDMENT

ANALYSIS

| Title | |
|---|--|
| 1. Short Title | 5. Special provisions in respect of certain factories |
| 2. Amending provisions as to hours of work | 6. Amending provisions as to wages payable for holidays |
| 3. Amending provisions as to overtime worked by women | 7. Prohibition of employment of boy or girl under fifteen years of age |
| 4. Records with respect to women's overtime | 8. Miscellaneous repeals |

A BILL INTITULED

An Act to amend the Factories Act 1946

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

1. **Short Title**—This Act may be cited as the Factories Amendment Act 1956, and shall be read together with and deemed part of the Factories Act 1946 (hereinafter referred to as the principal Act).

10 2. **Amending provisions as to hours of work**—(1) Section nineteen of the principal Act is hereby amended by repealing paragraph (c) of subsection one, and substituting the following paragraph:

Struck out

“(c) For more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for a meal:

“Provided that—

“(i) The said period of four and one-quarter hours may be extended to not more than five hours in cases where the occupier allows a rest interval of not less than ten minutes in every working period of not more than three hours: 5 10

“(ii) This paragraph shall not apply in respect of any worker where the nature of the work carried on by him necessitates the worker partaking of a meal during his working hours in the vicinity of the work on which he is engaged: 15

“(iii) The provisions of this paragraph shall be subject to any award made or industrial agreement filed under the Industrial Conciliation and Arbitration Act 1954 or any agreement made under the Labour Disputes Investigation Act 1913:”. 20

(2) Section nineteen of the principal Act is hereby further amended by omitting from paragraph (a) of subsection two the word “eight”, and substituting the word “seven”. 25

3. Amending provisions as to overtime worked by women—
Section twenty of the principal Act is hereby amended by repealing paragraph (b) of subsection two thereof.

New

“(c) For more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for a meal, except as may be provided in any award made or industrial agreement filed under the Industrial Conciliation and Arbitration Act 1954, or in any agreement made under the Labour Disputes Investigation Act 1913, or in any order or determination as to conditions of service made under the Government Service Tribunal Act 1948, or the Government Railways Act 1949, or the Post and Telegraph Act 1928: 30 35

“Provided that the said period of four and one-quarter hours may be extended to not more than five hours in cases where the occupier allows a rest interval of not less than ten minutes in every working period of not more than three hours.”

(2) Section nineteen of the principal Act is hereby further amended by omitting from paragraph (a) of subsection two the words “in the morning of the following day”, and substituting the words “, or, with the consent of the Inspector, seven o’clock, in the morning of the following day”.

3. Amending provisions as to overtime worked by women— Subsection two of section twenty of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The extension shall not be for any period between the hours of ten o’clock in the evening of any day and seven o’clock in the morning of the following day.”

4. Records with respect to women’s overtime—(1) The principal Act is hereby amended by repealing section twenty-one, and substituting the following section:

“21. (1) The occupier shall keep a record, showing the name of each employee and the hours worked by her, of all those women who have worked extended hours in accordance with subsection two of section twenty of this Act.

“(2) Every such record shall show at all times the total overtime that has for the time being been worked during each year by each woman to whom the record relates.

“(3) All such records shall be retained by the occupier for a period of not less than two years from the date on which they are made and shall at all times be available for inspection by the Inspector.

“(4) Notice shall, during some part of the working day immediately preceding that on which any extended hours are intended to be worked, be given to each woman to whom the extension is intended to apply; or where any such notice is impracticable, the occupier shall, in addition to any payment for overtime, provide every such woman who resides at a further distance than one mile from the factory either with a sufficient meal between the hour at which the factory ordinarily closes and the hour at which the extension is to commence, or with an allowance of not less than three shillings and sixpence which shall be paid on the day on which the extension is to apply not later than the hour at which the factory ordinarily closes [if the woman so requests, or otherwise on the next regular pay day.”]

(2) Section twenty of the principal Act is hereby amended by omitting from paragraph (c) of subsection two, as substituted by subsection one of section sixteen of the Statutes Amendment Act 1948, the words "grant a warrant under the next succeeding section permitting", and substituting the words "authorise in writing". 5

5. Special provisions in respect of certain factories—The principal Act is hereby amended by repealing section twenty-four, and substituting the following section:

"24. (1) The provisions of sections nineteen and twenty of this Act are hereby modified in respect of— 10

"(a) Those industries where raw materials which, in the opinion of the Inspector, are subject to rapid deterioration are processed for sale as foodstuffs; and 15

"(b) Those industries where, in the opinion of the Inspector, extended hours are necessary in order to meet a public demand resulting from approaching or existing holidays or from extraordinary circumstances— to the extent that, with the written consent of the Inspector, 20 the limitations as to hours of work contained in subsection two of section nineteen of this Act and the limitations as to overtime contained in section twenty of this Act need not be observed.

"(2) The Inspector, when giving his consent under subsection *one* of this section, may impose such conditions as he thinks fit and any such consent may be of general application or may relate to any specified part or parts of New Zealand, to any specified period or periods, or to any specified class or classes of undertakings, and different conditions may be imposed in respect of different parts of New Zealand or in respect of different classes of undertakings: 30

"Provided that no such consent shall authorise the employment of any worker—

"(a) At any time between the hours of ten o'clock in the evening and six o'clock in the morning of the following day; 35

"(b) So that a worker has not at least eleven consecutive hours for rest (which shall include the period referred to in paragraph (a) of this proviso) in any period of twenty-four hours; 40

“(c) On more than six days in any one week;

“(d) For any periods amounting in the aggregate to more than eleven hours in any period of twenty-four consecutive hours; or

5 “(e) On a Sunday, if the worker has been employed, whether or not by the same employer, on more than five days during the previous week.

New

10 “(3) Notwithstanding anything in the proviso to subsection *two* of this section, the Inspector, with the approval of the Secretary of Labour, may consent under this section to the employment of any worker at any time if the Inspector is satisfied that, because of climatic or other factors beyond the control of the occupier, any such employment is necessary in
15 order to preserve raw materials from certain loss.

“ (4) Before making any decision as to whether or not he shall give his consent under subsection *one* or subsection *three* of this section, the Inspector shall consult with each occupier of any factory to which the consent will relate and with each
20 organisation of those workers concerned with the decision employed in any such factory as to whether or not any such consent should be given and as to the terms and conditions to which the consent, if given, will be subject.”

6. Amending provisions as to wages payable for holidays—

25 (1) Section twenty-eight of the principal Act is hereby amended by repealing subsections one, two, and three, and substituting the following subsections:

“(1) Where any person has been employed in any factory at any time during the fortnight ending on the day on which
30 any of the whole holidays referred to in paragraph (a) of subsection one of section twenty-six of this Act occurs, each employer who employs him in a factory during that fortnight shall, subject to subsection *two* of this section, pay him for the holiday, on or before the next regular pay day after the
35 holiday, an amount equal to one-tenth of his wages for an ordinary working day multiplied by the number of ordinary working days on which he is employed during the fortnight by that employer.

“(2) Where on any ordinary working day during the fort-
40 night ending as aforesaid any such person has not otherwise been employed in any employment in which he is entitled to

payment for the holiday, the employer who last employed him in the factory during that fortnight shall be liable to pay him in respect of each day on which he was not otherwise employed as aforesaid an amount equal to one-tenth of his wages for an ordinary working day.

“(3) For the purposes of this section a certificate in writing by any person that he has not for any period during the fortnight ending as aforesaid been employed on an ordinary working day in any employment for which he is entitled to payment for any whole holiday referred to in paragraph (a) of subsection one of section twenty-six of this Act shall be *prima facie* evidence of that fact.

New

“(3A) Notwithstanding the provisions of this section, no worker shall be entitled to receive payment under the foregoing provisions of this section for more than the equivalent of one ordinary day’s wages for any such whole holiday.

“(3B) For the purposes of this section, the expression “ordinary working day” includes any such whole holiday if that holiday is granted on a day on which the person concerned would normally work.”

(2) Section twenty-eight of the principal Act is hereby further amended by omitting from subsection four the words “last two preceding subsections”, and substituting the words “foregoing provisions of this section”.

7. Prohibition of employment of boy or girl under fifteen years of age—Section thirty-seven of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:

“(1) A boy or girl under fifteen years of age shall not be employed in any factory.”

New

(2) Section thirty-seven of the principal Act is hereby further amended by omitting from subsection six the words “and either is over fifteen years of age or is over fourteen years of age and exempted under the Education Act 1914 from the obligation to be enrolled as a pupil at any school”, and substituting the words “and is over fifteen years of age”.

8. Miscellaneous repeals—(1) Sections twenty-five, twenty-seven, thirty, and thirty-three of the principal Act are hereby repealed.

(2) Subsection two of section sixteen of the Statutes Amendment Act 1948 is hereby repealed.

[AS REPORTED FROM THE LABOUR BILLS COMMITTEE]

House of Representatives, 16 October 1956

Words struck out by the Labour Bills Committee are shown in italics within bold round brackets or in roman enclosed in panel; words inserted are shown in black within bold square brackets or in roman with rule down side.

Hon. Mr Sullivan

FACTORIES AMENDMENT

ANALYSIS

| Title | |
|---|--|
| 1. Short Title | 5. Special provisions in respect of certain factories |
| 2. Amending provisions as to hours of work | 6. Amending provisions as to wages payable for holidays |
| 3. Amending provisions as to overtime worked by women | 7. Prohibition of employment of boy or girl under fifteen years of age |
| 4. Records with respect to women's overtime | 8. Miscellaneous repeals |

A BILL INTITULED

An Act to amend the Factories Act 1946

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

1. Short Title—This Act may be cited as the Factories Amendment Act 1956, and shall be read together with and deemed part of the Factories Act 1946 (hereinafter referred to as the principal Act).

10 **2. Amending provisions as to hours of work**—(1) Section nineteen of the principal Act is hereby amended by repealing paragraph (c) of subsection one, and substituting the following paragraph:

Struck out

“(c) For more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for a meal:

“Provided that—

“(i) The said period of four and one-quarter hours may be extended to not more than five hours in cases where the occupier allows a rest interval of not less than ten minutes in every working period of not more than three hours: 5 10

“(ii) This paragraph shall not apply in respect of any worker where the nature of the work carried on by him necessitates the worker partaking of a meal during his working hours in the vicinity of the work on which he is engaged: 15

“(iii) The provisions of this paragraph shall be subject to any award made or industrial agreement filed under the Industrial Conciliation and Arbitration Act 1954 or any agreement made under the Labour Disputes Investigation Act 1913:” 20

(2) Section nineteen of the principal Act is hereby further amended by omitting from paragraph (a) of subsection two the word “eight”, and substituting the word “seven”. 25

3. Amending provisions as to overtime worked by women—

Section twenty of the principal Act is hereby amended by repealing paragraph (b) of subsection two thereof.

New

“(c) For more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for a meal, except as may be provided in any award made or industrial agreement filed under the Industrial Conciliation and Arbitration Act 1954, or in any agreement made under 30 35 the Labour Disputes Investigation Act 1913, or in any order or determination as to conditions of service made under the Government Service Tribunal Act 1948, or the Government Railways Act 1949, or the Post and Telegraph Act 1928:

“Provided that the said period of four and one-quarter hours may be extended to not more than five hours in cases where the occupier allows a rest interval of not less than ten minutes in every working period of not more than three hours.”

(2) Section nineteen of the principal Act is hereby further amended by omitting from paragraph (a) of subsection two the words “in the morning of the following day”, and substituting the words “, or, with the consent of the Inspector, seven o’clock, in the morning of the following day”.

3. Amending provisions as to overtime worked by women— Subsection two of section twenty of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The extension shall not be for any period between the hours of ten o’clock in the evening of any day and seven o’clock in the morning of the following day.”

4. Records with respect to women’s overtime—(1) The principal Act is hereby amended by repealing section twenty-one, and substituting the following section:

“21. (1) The occupier shall keep a record, showing the name of each employee and the hours worked by her, of all those women who have worked extended hours in accordance with subsection two of section twenty of this Act.

“(2) Every such record shall show at all times the total overtime that has for the time being been worked during each year by each woman to whom the record relates.

“(3) All such records shall be retained by the occupier for a period of not less than two years from the date on which they are made and shall at all times be available for inspection by the Inspector.

“(4) Notice shall, during some part of the working day immediately preceding that on which any extended hours are intended to be worked, be given to each woman to whom the extension is intended to apply; or where any such notice is impracticable, the occupier shall, in addition to any payment for overtime, provide every such woman who resides at a further distance than one mile from the factory either with a sufficient meal between the hour at which the factory ordinarily closes and the hour at which the extension is to commence, or with an allowance of not less than three shillings and sixpence which shall be paid on the day on which the extension is to apply not later than the hour at which the factory ordinarily closes [if the woman so requests, or otherwise on the next regular pay day.”]

(2) Section twenty of the principal Act is hereby amended by omitting from paragraph (c) of subsection two, as substituted by subsection one of section sixteen of the Statutes Amendment Act 1948, the words "grant a warrant under the next succeeding section permitting", and substituting the words "authorise in writing". 5

5. Special provisions in respect of certain factories—The principal Act is hereby amended by repealing section twenty-four, and substituting the following section:

"24. (1) The provisions of sections nineteen and twenty of this Act are hereby modified in respect of— 10

"(a) Those industries where raw materials which, in the opinion of the Inspector, are subject to rapid deterioration are processed for sale as foodstuffs; and 15

"(b) Those industries where, in the opinion of the Inspector, extended hours are necessary in order to meet a public demand resulting from approaching or existing holidays or from extraordinary circumstances— to the extent that, with the written consent of the Inspector, 20 the limitations as to hours of work contained in subsection two of section nineteen of this Act and the limitations as to overtime contained in section twenty of this Act need not be observed.

"(2) The Inspector, when giving his consent under subsection *one* of this section, may impose such conditions as he thinks fit and any such consent may be of general application or may relate to any specified part or parts of New Zealand, to any specified period or periods, or to any specified class or classes of undertakings, and different conditions may be imposed in respect of different parts of New Zealand or in respect of different classes of undertakings: 30

"Provided that no such consent shall authorise the employment of any worker—

"(a) At any time between the hours of ten o'clock in the evening and six o'clock in the morning of the following day; 35

"(b) So that a worker has not at least eleven consecutive hours for rest (which shall include the period referred to in paragraph (a) of this proviso) in any period of twenty-four hours; 40

“(c) On more than six days in any one week;

“(d) For any periods amounting in the aggregate to more than eleven hours in any period of twenty-four consecutive hours; or

5 “(e) On a Sunday, if the worker has been employed, whether or not by the same employer, on more than five days during the previous week.

New

10 “(3) Notwithstanding anything in the proviso to subsection *two* of this section, the Inspector, with the approval of the Secretary of Labour, may consent under this section to the employment of any worker at any time if the Inspector is satisfied that, because of climatic or other factors beyond the control of the occupier, any such employment is necessary in
15 order to preserve raw materials from certain loss.

“ (4) Before making any decision as to whether or not he shall give his consent under subsection *one* or subsection *three* of this section, the Inspector shall consult with each occupier of any factory to which the consent will relate and with each
20 organisation of those workers concerned with the decision employed in any such factory as to whether or not any such consent should be given and as to the terms and conditions to which the consent, if given, will be subject.”

6. Amending provisions as to wages payable for holidays—

25 (1) Section twenty-eight of the principal Act is hereby amended by repealing subsections one, two, and three, and substituting the following subsections:

“ (1) Where any person has been employed in any factory at any time during the fortnight ending on the day on which
30 any of the whole holidays referred to in paragraph (a) of subsection one of section twenty-six of this Act occurs, each employer who employs him in a factory during that fortnight shall, subject to subsection *two* of this section, pay him for the holiday, on or before the next regular pay day after the
35 holiday, an amount equal to one-tenth of his wages for an ordinary working day multiplied by the number of ordinary working days on which he is employed during the fortnight by that employer.

“ (2) Where on any ordinary working day during the fort-
40 night ending as aforesaid any such person has not otherwise been employed in any employment in which he is entitled to

payment for the holiday, the employer who last employed him in the factory during that fortnight shall be liable to pay him in respect of each day on which he was not otherwise employed as aforesaid an amount equal to one-tenth of his wages for an ordinary working day.

“(3) For the purposes of this section a certificate in writing by any person that he has not for any period during the fortnight ending as aforesaid been employed on an ordinary working day in any employment for which he is entitled to payment for any whole holiday referred to in paragraph (a) of subsection one of section twenty-six of this Act shall be *prima facie* evidence of that fact.

New

“(3A) Notwithstanding the provisions of this section, no worker shall be entitled to receive payment under the foregoing provisions of this section for more than the equivalent of one ordinary day’s wages for any such whole holiday.

“(3B) For the purposes of this section, the expression “ordinary working day” includes any such whole holiday if that holiday is granted on a day on which the person concerned would normally work.”

(2) Section twenty-eight of the principal Act is hereby further amended by omitting from subsection four the words “last two preceding subsections”, and substituting the words “foregoing provisions of this section”.

7. Prohibition of employment of boy or girl under fifteen years of age—Section thirty-seven of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:

“(1) A boy or girl under fifteen years of age shall not be employed in any factory.”

New

(2) Section thirty-seven of the principal Act is hereby further amended by omitting from subsection six the words “and either is over fifteen years of age or is over fourteen years of age and exempted under the Education Act 1914 from the obligation to be enrolled as a pupil at any school”, and substituting the words “and is over fifteen years of age”.

8. Miscellaneous repeals—(1) Sections twenty-five, twenty-seven, thirty, and thirty-three of the principal Act are hereby repealed.

(2) Subsection two of section sixteen of the Statutes Amendment Act 1948 is hereby repealed.