

39

Hon. Sir William Herries.

SHOPS AND OFFICES AMENDMENT (No. 3).

ANALYSIS.

- | | |
|--|---|
| <p>Title.</p> <p>1. Short Title and commencement.</p> <p>2. Special provisions as to hours of closing on days preceding Christmas Day, New Year's Day, and Good Friday. Repeal.</p> <p>3. Section 6 of principal Act (relating to hours of employment of shop-assistants) amended.</p> <p>4. Section 17 of principal Act (relating to poll of electors to determine statutory closing-day) amended.</p> <p>5. Repeals.</p> | <p>6. Section 25 of principal Act (providing for fixing of closing-hours on requisition of occupiers) amended. Repeal.</p> <p>7. Limitation of proceedings for offences against principal Act.</p> <p>8. Definition of powers of Court of Arbitration with respect to shops.</p> <p>9. Shop-assistants liable for breach of provisions as to hours of employment.</p> <p>10. Hours of closing of shops in boroughs specified in the Schedule hereto.</p> <p>11. "Restaurant" defined. Schedule.</p> |
|--|---|

A BILL INTITULED

AN ACT to amend the Shops and Offices Act, 1908.

Title.

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

1. (1.) This Act may be cited as the Shops and Offices Amendment Act, 1920, and shall form part of and be read together with the Shops and Offices Act, 1908 (hereinafter referred to as the principal Act).

Short Title and Commencement.

10 (2.) This Act shall come into force on the first day of January, nineteen hundred and twenty-one.

15 2. (1.) Notwithstanding anything to the contrary in the principal Act, or in any notice issued pursuant to section twenty-five thereof, or in any award or industrial agreement under the Industrial Conciliation and Arbitration Act, 1908, any shop-assistant may be employed on one of the six working-days immediately preceding Christmas Day and on one working-day between Christmas Day and New Year's Day as if the references to nine o'clock in section three of the principal Act and in the Second Schedule thereto were 20 references to ten o'clock:

Special provisions as to hours of closing on days preceding Christmas Day, New Year's Day, and Good Friday.

Provided that this subsection shall not be so construed as to authorize the employment of shop-assistants in contravention of the provisions of section six of the principal Act, or of any award or agreement fixing the number of hours of employment of shop-assistants.

(2.) Notwithstanding anything to the contrary in the principal Act, or in any notice issued pursuant to section twenty-five thereof, or in any award or industrial agreement as aforesaid, the occupier of any shop may keep his shop open and employ his assistants or any of them until nine o'clock in the evening on the day immediately preceding Good Friday: 10

Provided that if any shop-assistants are, by reason of the operation of this subsection, employed in the day or week immediately preceding Good Friday in excess of the daily or weekly maximum number of hours fixed by section six of the principal Act, they shall not be employed at any time on the day immediately following Good Friday. 15

Repeal.

Section 6 of principal Act (relating to hours of employment of shop-assistants) amended.

(3.) Section five of the principal Act is hereby repealed.

3. Section six of the principal Act is hereby amended—

(a.) By omitting from paragraph (a) of subsection one the words "fifty-two hours," and substituting the words "forty-eight hours"; and 20

(b.) By omitting the third proviso to subsection three, and substituting the following proviso:—

"Provided that it shall not be obligatory on an employer to pay the overtime rate to any shop-assistant employed as the head of a department of the shop." 25

Section 17 of principal Act (relating to poll of electors to determine statutory closing-day) amended.

Repeals.

Section 25 of principal Act (providing for fixing of closing-hours on requisition of occupiers) amended.

4. Section seventeen of the principal Act is hereby amended by omitting from subsection eleven the words "On and after the first day of June following," and substituting the words "From a date to be fixed by the Minister in the notice of appointment aforesaid, being not later than three months after." 30

5. Paragraphs (a) and (b) of section nineteen of the principal Act are hereby repealed.

6. (1.) Section twenty-five of the principal Act is hereby amended as follows:— 35

(a.) By omitting from the proviso to subsection one the words "the local authority has certified," and substituting the words "he is satisfied"; and

(b.) By repealing subsection eight, and substituting the following subsection:— 40

"(8.) It shall not be lawful for the occupier of any shop (including an hotel or a restaurant) to sell or deliver any goods the sale of which is comprised in the principal business of the occupier of any other shop in the same district while such last-mentioned shop is required to be closed pursuant to a requisition under this section: 45

"Provided that the occupier of an hotel or a restaurant may at any time sell tobacco, cigars, or cigarettes to lodgers in the hotel or restaurant." 50

Repeal.

(2.) Section two of the Shops and Offices Amendment Act, 1915, is hereby repealed.

7. Section forty-three of the principal Act is hereby amended by repealing paragraph (a), exclusive of the proviso, and substituting the following paragraph:—

Limitation of proceedings for offences against principal Act.

5 “(a.) The proceedings shall be commenced within three months after the date of the commission of the offence.”

8. (1.) In any award under the Industrial Conciliation and Arbitration Act, 1908, relating to the employment of shop-assistants, the Court of Arbitration may fix the hours of closing on any working-day of all shops in the industry or industries to which the award relates in any industrial district in which the award has effect, or in 10 any specified part of that district, irrespective of whether or not any assistants are employed in those shops:

Definition of powers of Court of Arbitration with respect to shops.

Provided that the Court may, on application by the occupier of any shop, exempt that shop from the operation of this section if 15 the Court is of opinion that the observance of the closing-hours fixed by the award would cause undue hardship to the occupier.

(2.) In any such award the Court of Arbitration may also fix the maximum weekly or daily number of hours of employment and the times of employment of shop-assistants, the holidays to be 20 observed, and the minimum wages (including rates of payment for overtime) to be paid to shop-assistants:

Provided that in any award under this section the Court shall not—

25 (a.) Fix the weekly or daily number of hours of employment of any shop-assistants in excess of the maximum number prescribed by the principal Act; or

(b.) Fix the rates of wages of any shop-assistants (including rates of payment for overtime) at less than the rates fixed by the principal Act; or

30 (c.) Extend the time of closing or the time at which any shop-assistants shall cease employment on any day beyond the times fixed in that behalf by the principal Act.

(3.) Every person who commits a breach of any award in relation to any of the matters referred to in this section commits an 35 offence against the principal Act, and shall be liable accordingly. Nothing in this subsection shall be so construed or shall so operate as to take away or restrict the liability of any person for an offence against the Industrial Conciliation and Arbitration Act, 1908, but no person shall be punished under that Act and the principal Act for 40 the same offence.

9. Every shop-assistant who is employed in breach of the provisions of the principal Act commits an offence against that Act, and is liable to a fine of *five* pounds for each such offence.

Shop-assistants liable for breach of provisions as to hours of employment.

45 10. (1.) In the districts specified in the Schedule hereto all shops (other than those in which any one or more of the trades or businesses specified in the Second Schedule to the principal Act are exclusively carried on) shall be closed from the hour of six o'clock in the evening on four working-days of the week other than the day of the statutory half-holiday, and not later than nine o'clock in the 50 evening on one other working-day of the week. Such last-mentioned day shall be Friday in the case of all occupiers who observe Saturday as the statutory half-holiday, and in all other cases shall be Saturday.

Hours of closing of shops in districts specified in the Schedule hereto.

(2.) Nothing herein shall authorize the occupier of any shop to keep his shop open after the hour fixed for the closing thereof by any notice under section twenty-five of the principal Act, or by any award of the Court of Arbitration.

“Restaurant”
defined.

11. (1.) Section two of the Shops and Offices Amendment Act, 1910, is hereby amended by omitting all words after the words “Licensing Act, 1908,” and substituting the following :—

5

“ ‘Restaurant’ means any shop or portion of a shop in which is carried on exclusively the business of selling meals or refreshments to the general public for consumption on the premises (whether or not lodging is provided for hire for the accommodation of persons who desire to lodge therein), but does not include an hotel or a boardinghouse in which only permanent boarders are accommodated.

10

(2.) Sections four and five of the Shops and Offices Amendment Act, 1910, in so far as they relate to assistants employed in a restaurant, shall apply only to assistants who are exclusively so employed.

15

(3.) Section three of the Shops and Offices Amendment Act, 1910, is hereby amended by omitting the words “and restaurants.”

20

Schedule.

SCHEDULE.

COMBINED DISTRICTS (AS DEFINED IN SECTION 10 OF PRINCIPAL ACT).
AUCKLAND, Christchurch, Dunedin, Gisborne and the Town District of Mangapapa, Invercargill, Nelson, Petone and Lower Hutt, Wanganui, Wellington.

SEPARATE DISTRICTS (AS DEFINED IN SECTION 10 OF PRINCIPAL ACT).
Hamilton, Hastings, Masterton, Napier, New Plymouth, Palmerston North, Timaru.