

Hon. Mr. W. C. Walker.

SHOPS AND OFFICES.

ANALYSIS.

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A BILL INTITULED

AN ACT to consolidate and amend the Law relating to Shops Title. and Offices.

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

1. The Short Title of this Act is "The Shops and Offices Act, Short Title. 1900."

2. In this Act, unless inconsistent with the context,—

"Borough" includes city:

"Inspector" means any Inspector of Factories appointed under "The Factories Act, 1900":

No. 131—1.

Interpretation.
1894, No. 32, s. 2,
altered.

“ Minister ” means the Minister for Labour :

“ Occupier ” means the person occupying any building enclosure, or place used or intended to be used as a shop or office, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a shop or office ; and 5

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

“ Office ” means any building in which any person is employed, directly or indirectly, to do any clerical work in connection with any mercantile, commercial, or professional business or calling carried on therein by the occupier thereof : 10

Provided that any building or room in which the clerical work of a factory or shop is carried on shall, if situate within the factory or shop, be deemed to be part of the factory or shop, and not to be an office within the meaning of this Act : 15

“ Office-assistant ” means any person employed in any office as defined by this Act : 20

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

“ Prescribed ” means prescribed by regulations :

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

“ Regulations ” means regulations from time to time in force under this Act : 25

“ Shop ” means any building or place in which goods are kept or exposed or offered for sale by retail, or in which any part of the business of the shop is conducted :

“ Shop-assistant ” means any person (whether a member of the occupier’s family or not) who is employed directly or indirectly by the occupier of a shop to do any manual or clerical work in or about the shop or its business, and includes— 30

(a.) Apprentices and improvers ; and also 35

(b.) All persons in the occupier’s employment who sell or deliver his goods or canvass for orders for his goods, whether such persons are at any time actually employed inside the shop or not.

“ Working-day ” means any day in the week except Sunday. 40

(1.) SHOPS.

Statutory Closing-day for Shops.

3. For the purposes of this Act,—

- (1.) All boroughs and town districts, any part of any one of which is within half a mile of any part of any other, shall be deemed to constitute a “ combined district.” 45
- (2.) Every borough or town district which is not comprised in a combined district shall be deemed to be a “ separate district.”
- (3.) Every road district shall also be deemed to be a separate district. 50

1895, No. 59, s. 9,
altered; 1896,
No. 33, s. 2.

Combined and
separate districts.
1894, No. 32, s. 9,
altered.

(4.) The Minister shall, by notice in the *Gazette*, specify each combined district and the respective boroughs and town districts comprised therein.

(5.) Such *Gazette* notice shall be conclusive evidence of the matters stated therein.

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4. (1.) Except in the cases hereinafter specially provided, all shops in a separate or combined district shall be closed on one working-day of each week at and from the hour of one o'clock in the afternoon.

Shops to close on one working-day at one o'clock.

Ib., s. 6.

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(2.) Such day is hereinafter referred to as "the statutory closing-day."

(3.) The statutory closing-day for shops shall in every case be one and the same working-day in the same separate or combined district:

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Provided that, where the statutory closing-day appointed for shops generally in a district is Saturday, another working-day may at the same time be appointed as the statutory closing-day in the district for the shops of butchers, hairdressers, and photographers.

Ib., s. 10.

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5. A shop shall not be deemed to be closed within the meaning of this Act unless it is effectively locked or otherwise closed against the admission of the public.

When shop deemed closed.

Ib., s. 2, altered.

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6. In every case where, on the statutory closing-day appointed in that behalf, a shop is not closed as required by this Act, the occupier of the shop commits an offence, and shall be liable to a penalty not exceeding *five* pounds for each such offence.

Penalty for not closing.

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7. The statutory closing-day for shops in each separate district shall be appointed in manner following, that is to say,—

Mode of appointing closing-day in separate districts.

Ib., s. 9, altered.

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(1.) At a special meeting of the local authority of the separate district held in the month of January in each year, and notified by advertisement appearing at least seven days before the day of meeting, the local authority shall by resolution decide what working-day in the week shall be the statutory closing-day.

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(2.) The Mayor or Chairman shall forthwith notify to the Minister the day so decided on, and the Minister shall thereupon, by notice in the *Gazette* appearing in the month of February in the same year, appoint that day to be the statutory closing-day for shops in the separate district.

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8. Subject to the provisions of section *nine* hereof, the statutory closing-day for shops in each combined district shall be appointed in manner following, that is to say,—

Appointment of closing-day in combined district.

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(1.) In the month of January in each year a conference of delegates from the local authorities of all the boroughs and town districts comprised in the combined district (hereinafter referred to as "constituent local authorities") shall be held, and shall by resolution decide what working-day shall be the statutory closing-day.

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(2.) The Chairman of the conference shall forthwith notify to the Minister the day so decided on, and the Minister shall thereupon, by notice in the *Gazette* appearing in the month of February in the same year, appoint that day to be the statutory closing-day for shops in the combined district.

Procedure with respect to conference.

9. With respect to such conference the following provisions shall apply :—

- (1.) Each of the constituent local authorities (other than a City Council) shall appoint one of its members to be a delegate. 5
- (2.) If a City Council is one of the constituent local authorities, it shall out of its members appoint delegates, exceeding by one the total number of delegates which all the other constituent local authorities are entitled to appoint.
- (3.) Of the delegates appointed by the City Council its Mayor shall in every case be one. 10
- (4.) In the month of December of each year the City Council or other the constituent local authority of the borough or town district having the largest population (hereinafter referred to as "the convening local authority") shall fix a convenient time in the month of January for the meeting of the conference, and shall notify the same to all the other constituent local authorities and request them to appoint their delegates. 15
- (5.) The meeting of the conference shall be held at the time so fixed, and at the office of the convening local authority. 20
- (6.) At all meetings of the conference the quorum shall be a bare majority of the total number of delegates which all the constituent local authorities are entitled to appoint.
- (7.) At the first meeting of the conference the members shall appoint one of their number to be Chairman, and if they fail or neglect so to do, then the Mayor or Chairman of the convening local authority shall be Chairman of the conference. 25
- (8.) The proceedings of the conference shall not be affected by the fact that the full number of delegates has not been appointed. 30
- (9.) Subject to the foregoing provisions of this section, the rules for the conduct of business at meetings of the convening local authority shall apply to the conduct of business at meetings of the conference. 35

1894, No. 32, s. 11, altered.

1895, No. 59, s. 11.

Ib., s. 2.

Minister may appoint day when not decided on.
1894, No. 32, s. 10.
1895, No. 59, s. 10.

When appointment of closing-day to take effect.

Gazette notice conclusive evidence.

10. In every case where for any reason the statutory closing-day for shops in a separate or combined district is not duly decided on as aforesaid, or where for any reason the Minister has not, on or before the tenth day of February in any year, been duly notified as aforesaid of the day decided on, he shall himself, by notice in the *Gazette* appearing in that month, appoint as the statutory closing-day for shops in that district such working-day as he thinks fit. 40

11. (1.) The statutory closing-day appointed by the Minister shall, in the case of each separate or combined district, be the statutory closing-day for shops in such district on and from the first day of March next following the appearance of the *Gazette* notice appointing the same, until a fresh appointment is duly made. 45

(2.) Such *Gazette* notice shall in the case of a combined district specify each borough and town district comprised therein. 50

(3.) Such *Gazette* notice shall in every case, according to its tenor, be conclusive evidence of the matters stated therein, and of the statutory closing-day appointed for shops in the separate or combined district specified therein.

Exceptions and Modifications as to the Statutory Closing-day.

12. (1.) Such of the provisions of this Act as require the closing of shops on the statutory closing-day shall not apply in the case of any shop wherein is exclusively carried on any one or more of the

5 businesses of a chemist, a fishmonger, a fruiterer, a confectioner, a bookstall-keeper on a railway-station, or an eatinghouse-keeper :

Certain businesses
excepted from
closing.
1894, No. 32, s. 3.

Provided that it shall not be lawful for any person carrying on any of the businesses excepted by this section to sell during the period to which such exception relates any goods other than those

10 properly appertaining to such excepted business.

(2.) For the purposes of this section,—

- (a.) A chemist means a person whose business is the sale of medicine and surgical appliances ;
- 15 (b.) A fishmonger means a person whose business is to sell fish or shell-fish ;
- (c.) A fruiterer means a person whose business is to sell fresh fruit or vegetables ;
- (d.) A confectioner means a person whose business is to sell confections or sweetmeats.

20 13. If the statutory closing-day is other than Saturday, then the following special power shall apply in the case of a shop which is carried on in connection with a factory by the same occupier and in the same or adjoining premises :—

Special provision
as to closing-day
when shop con-
nected with factory.
Ib., s. 10.
1895, No. 59, s. 10,
altered.

- (1.) The occupier may, by notice to the Inspector, elect to treat Saturday as the closing-day for the shop in lieu of the statutory closing-day.
- (2.) The Inspector, if satisfied that the shop is carried on in connection with a factory and by the same occupier, shall, by certificate under his hand, ratify such election.
- 30 (3.) So long as such certificate continues unrevoked (but no longer), Saturday shall be deemed to be the statutory closing-day for that shop, and the provisions of this Act shall operate and be construed accordingly.
- (4.) Such certificate may be revoked by the Inspector at any
- 35 time at the request of the occupier, and shall be revoked by him whenever he is satisfied that the shop is not being carried on in connection with a factory or by the same occupier.

14. Nothing in this Act shall operate or be construed to render it unlawful for the occupier of a shop to keep the shop open on the statutory closing-day after the prescribed time of closing in either of the following cases, that is to say,—

Cases in which
shops may keep
open.

- (1.) In the case of a shop which is situate at a seaport, and is kept open as aforesaid solely for the purpose of supplying goods to any vessel arriving at the port on that day.
- 45 (2.) In the case of a shop in which the business carried on is the sale of machinery for harvesting purposes, or fittings for such machinery, and which is kept open as aforesaid during the time of harvest for the sole purpose of selling such machinery or fittings.

1894, No. 32, s. 7,
altered.

1895, No. 59, s. 8.

50 15. With respect to the following special days, that is to say,—

Shop may close on
public holiday in
lieu of half-holiday.
1894, No. 32, ss. 3
and 4, altered.

Christmas Day, New Year's Day, Good Friday, Easter Monday,
Labour Day, the birthday of the reigning Sovereign,

or any day which pursuant to proclamation by the Governor, or declaration by the Government, is generally observed as a public holiday or half-holiday—

the following provisions shall apply:—

- (1.) In any case where the statutory closing-day falls on a working-day next preceding any such special day (whether in the same week or not), or where any such special day falls on another day than the statutory closing-day but in the same week, it shall be deemed to be a sufficient compliance with the requirements of this Act relating to the statutory closing-day if the occupier of a shop in the district duly complies with those requirements on the special day in lieu of on the statutory closing-day. 5
- (2.) In every case where Christmas Day, New Year's Day, or the birthday of the reigning Sovereign falls on a Sunday, then for all the purposes of this section the next succeeding Monday shall be deemed to be the special day in lieu of the Sunday, and the provisions of this section shall be construed accordingly. 10 15
- (3.) Whenever on the request of the Mayor or Chairman of a local authority any day is generally observed as a public holiday or half-holiday in the district of the local authority, such day shall be deemed to be a special day within the meaning of this section in such district. 20 25

Special Provisions as to Early Closing of Shops.

Special provisions for fixing closing-hour of shops. 1895, No. 59, s. 17, altered.

16. (1.) Upon the requisition in writing of the occupiers of not less than three-fifths of all the shops in any borough, desiring that all the shops therein shall be closed in the evening of every working-day at an hour specified in the requisition, the Minister shall, by notice in the *Gazette*, direct that from and after a day therein mentioned all shops in the borough shall be closed in accordance with the requisition; and in such case, and until upon a like requisition the *Gazette* notice is cancelled or varied by the Minister, all shops in the borough shall be closed accordingly, anything elsewhere in this Act to the contrary notwithstanding: 30 35

Provided that no requisition shall be acted upon by the Minister unless the City or Borough Council has certified that the signatures to the requisition represent the occupiers of not less than three-fifths of all the shops within the borough. 40

(2.) Such requisition may be limited to any particular trade or trades within the borough, and in every such case the provisions of the *last preceding* subsection shall, *mutatis mutandis*, apply to such limited requisition.

(3.) In either case such requisition may specify different hours for closing on different working-days, or an hour for closing on one working-day only. 45

(4.) Nothing herein contained shall be construed as permitting any shop to remain open on any statutory closing-day.

Employment of Shop-assistants generally.

Provisions as to dinner and employment after closing-time. 1894, No. 32, s. 16.

17. With respect to the employment of shop-assistants, whatever their age or sex, the following rules shall be observed in every shop:— 50

- (1.) Every shop-assistant shall be allowed an interval of one hour for dinner. 55

- (2.) A shop-assistant shall not be employed in or about the shop or its business after half-past one of the clock on the afternoon of the statutory closing-day: Except in the case of a cashier or cash-book keeper, for the purpose of balancing the cash or cash-book after the close of the day's transactions, where a daily balance is usual.

1894, No. 32, s. 5, altered.

Employment of Women and Young Persons in Shops.

18. With respect to the employment of shop-assistants who are women or girls, whatever their age, or boys under the age of eighteen years (but subject in every case to the provisions of the last preceding section hereof), the following rules shall be observed in every shop:—

Provisions as to hours of work and meal-times.

- (1.) The shop-assistant shall not be employed in or about the shop or its business—

(a.) For more than fifty-two hours, excluding meal-times, in any one week; nor

1894, No. 32, s. 12.

(b.) For more than nine hours and a half, excluding meal-times, in any one day, except on one day in each week, when the employment may be for eleven hours and a half, excluding meal-times; nor

(c.) At any time between the hours of six o'clock in the evening and eight o'clock in the morning.

- (2.) For the purposes of stock-taking such working-hours may, with the previous written consent of the Inspector, be extended, but not more than three hours in any one day on not more than forty days in any one year.

- (3.) The shop-assistant shall not be employed in or about the shop or its business for more than five consecutive hours without having an interval of not less than half an hour for rest and refreshment.

19. With respect to shop-assistants who are women or girls, whatever their age, the following special provisions shall apply:—

Sitting accommodation for women and girls.

- (1.) Reasonable and proper sitting accommodation shall at all times be provided for them in the shop.

Ib., s. 15.

- (2.) They shall be allowed to avail themselves of the sitting accommodation at reasonable intervals throughout the day.

- (3.) They shall not be dismissed, nor shall their wages be reduced, by reason merely that they have availed themselves of the sitting accommodation, unless the occupier proves that they have done so to an unreasonable extent.

Special Provisions as to limit of Hours of Employment of Shop-assistants.

20. In order to prevent any evasion or avoidance of the limitation imposed on the employment of shop-assistants by the two last preceding sections hereof, the following special provisions shall apply in the case of every shop-assistant referred to in such sections:—

When shop-assistant deemed employed in shop.

- (1.) The shop-assistant shall not be employed in or about the shop or its business during the interval to be allowed for dinner or for rest and refreshment, as provided by those sections.

- 1896, No. 33, ss. 4, 5.
- (2.) The shop-assistant shall be deemed to be employed in the shop if he in fact does any work in or about the shop, whether the occupier has assented thereto or not.
- (3.) All work done for the occupier of the shop by the shop-assistant elsewhere than in the shop (whether the work is or is not in connection with the business of the shop) shall be deemed to be done whilst the shop-assistant is employed in the shop, and the time shall be counted accordingly. 5

Special as to Hawkers and Pedlars. 10

Hawkers and other persons not carrying on business in shops.

Ib., s. 3.

21. With respect to hawkers or pedlars and other persons who carry on business by selling or offering goods for sale by retail otherwise than in a shop, the following special provisions shall apply:—

- (1.) Every such person shall be deemed to be the occupier of a shop, and every assistant employed by him in or about such business shall be deemed to be a shop-assistant within the meaning of this Act. 15
- (2.) Every such person shall be deemed to keep a shop open whenever and wherever for the time being he is selling or offering goods for sale by retail. 20

(2.) OFFICES.

Closing Hour for Offices.

Closing-hour for offices.
1894, No. 32, s. 18.

Exception.
1896, No. 33, s. 6.

Offices may close on Saturday.

Office to be effectively closed.
1894, No. 32, s. 2.

When office-assistant not to be employed.
Ib., s. 5, altered.

22. Every office shall be closed not later than one of the clock in the afternoon on Saturday, and five of the clock in the afternoon on every other working-day, and shall continue closed for the remainder of the day : 25

Provided that this section shall not apply to shipping, railway, tramway, or newspaper offices :

Provided further that, with the written consent of the Inspector, any office may remain open for not more than *three* hours after the closing-hour hereinbefore prescribed, on not more than *ten* days in any one month. 30

23. (1.) In the event of any other day than Saturday being appointed as the closing-day for shops in any district, the occupier of any office in such district shall be entitled to close his office on that day in lieu of Saturday, on giving notice to the Inspector of his desire so to do. Such notice shall be lodged with the Inspector during the month of January in each year, or within one month after an office is first opened for business, as the case may be. 35

(2.) Where a shop and office are conjoined in one in the same building, and under the one occupier, it shall be sufficient if the two divisions are closed on the day appointed for the closing of shops in that district. 40

24. An office shall not be deemed to be closed within the meaning of this Act unless it is effectively locked or otherwise closed against the admission of the public. 45

Employment of Office-assistants.

25. (1.) An office-assistant shall not be employed in or about the office or its business after the expiration of half an hour after the hour when by this Act the office is required to be closed for the day. 50

(2.) An office-assistant shall be deemed to be employed in the office within the meaning of this section if he in fact does any work in or about the office, whether the occupier of the office has assented thereto or not.

5 26. It shall not be deemed to be a breach of the *last preceding* section hereof if, whilst an office is by this Act required to be closed, an office-assistant is employed in the office in the cases and for the purposes following:—

Cases in which office-assistant may be employed after closing.

1894, No. 32, s. 19, altered.

1896, No. 33, s. 6.

10 (1.) In the case of a cashier, or cash-book keeper, for the purpose of balancing his cash or cash-book after the close of the day's transactions, where a daily balance is usual.

(2.) In the case of a ledger-keeper, for the purpose of the weekly balance of his ledger, where a weekly balance is usual.

15 (3.) In the case of any office-assistant, for the purpose of the yearly or half-yearly balance of the business of the office:

20 Provided that he shall in no case be employed under this subsection for more than *three* hours in any one day, nor for more than *two* weeks before and *two* weeks after the date of the balance, nor unless at least *two* weeks previous written notice of the date of the balance has been given by the occupier of the office to the Inspector.

25 (4.) In the case of any office-assistant, for the purpose of writing up the books for the day's transactions, or clearing up arrears of office-work generally:

Provided that he shall in no case be employed under this subsection for more than *three* hours on any one day, nor for more than *six* days in any one month.

30 (5.) In the case of a messenger or caretaker, for the purpose of attending on any office-assistant lawfully employed in work under the provisions of this section.

35 27. (1.) The occupier of an office shall at all times keep a record-book, called the "Extra-time Book," wherein shall be entered a correct record showing, in the case of each office-assistant who is employed under the *last preceding* section hereof, the name of the assistant, and the respective dates, periods, and purposes of such employment.

Extra-time book to be kept.

(2.) The extra-time book shall at all times be open to the inspection of the office-assistants and of the Inspector.

40 (3.) GENERAL.

Half-holidays in Shops, Offices, and Hotels, etc.

45 28. Notwithstanding anything elsewhere contained in this Act, every person employed in a shop or office as a shop-assistant or an office-assistant shall be allowed by the occupier thereof a weekly half-holiday on some working-day in each week, at and from half-past one of the clock in the afternoon, and with respect to such weekly half-holiday the following provisions shall apply:—

Provision for allowing every shop- and office-assistant a half-holiday.

1894, No. 32, s. 8, altered.

50 (1.) The right to the half-holiday shall not be in any way affected by any provisions of this Act relating to the closing of shops or offices, the limits of working-hours therein, the employment of shop-assistants or office

assistants after the time of closing, the exemption of shops or offices from closing, or otherwise howsoever, and these provisions shall operate accordingly.

- (2.) The day for the half-holiday shall be—
- (a.) In the case of offices, Saturday. 5
 - (b.) In the case of shops situate within a separate or combined district, the statutory closing-day for shops in such district.
 - (c.) In the case of shops not situate within a separate or combined district, such working-day as the occupier of 10 the shop thinks fit.
- (3.) The half-holiday shall be allowed without deduction from wages or salary.
- (4.) The wages or salary for the half-holiday shall be at the same rate as for ordinary working-days, and shall be paid at the 15 first regular pay-day after the half-holiday.
- (5.) For the purpose of extending the benefits of this section to persons employed as assistants in hotels and eating-houses or restaurants, but for no other purpose,—
- (a.) Every hotel, eating-house, or restaurant shall be 20 deemed to be a shop;
 - (b.) Every keeper of a hotel, eating-house, or restaurant shall be deemed to be an occupier of a shop; and
 - (c.) Every person employed in the hotel, eating- 25 house, or restaurant shall be deemed to be a shop-assistant.

Half-holiday when employed partly in shop and factory. 1896, No. 33, s. 4.

29. In any case where a person is the occupier of both a shop and a factory, and employs any person partly in the one establishment and partly in the other, such last-mentioned person shall, for 30 the purposes of the weekly half-holiday and the wages therefor, be deemed to be employed exclusively in the establishment in which he is chiefly employed, as certified by the Inspector.

Sanitation of Shops and Offices.

Provisions for sanitation. 1894, No. 32, s. 17, altered. 1895, No. 59, s. 12.

30. For the better sanitation of shops and offices, the following 35 rules shall at all times be observed:—

- (1.) The shop or office 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 40 persons employed in the shop or office, 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.
- (3.) The shop or office shall not be overcrowded so as to be 45 hurtful to the health of the persons employed therein.
- (4.) The shop or office 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 50 the work carried on therein.

(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.

(6.) The Inspector may from time to time, by requisition to the occupier, determine as to the shop or office 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.

(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.

(8.) A sufficient supply of fresh drinking-water shall be provided for the free use of the persons employed in the shop or office.

31. If any person employed in or in connection with any shop in the manufacture, handling, or delivery of any bread, meat, milk, confectionery, or other article for human consumption is in a state of health which, in the opinion of the Inspector, is likely to convey germs of disease or other contamination to any of the said articles,—

(1.) The Inspector shall serve upon the person so employed, either personally or by posting the same addressed to him at the shop, a notice requiring the said person to submit himself for examination to a medical authority.

(2.) The Inspector shall serve a like notice upon the occupier of such shop.

(3.) Immediately upon service of such notice the person so employed shall cease to do any work in such shop until he has produced to the Inspector a certificate from such medical authority that his state of health is not likely to convey germs of disease or other contamination to any of the said articles of food.

(4.) If the person so employed does any work in or about such shop after service of the said notice upon him without first obtaining the said certificate, he shall be liable to a penalty not exceeding *two* pounds for every day on which he works in contravention of this section.

(5.) If the occupier of the shop, after service upon him of the said notice, employs such person, he shall be liable to the same penalty as is hereinbefore provided in the case of the person so employed.

32. Where it appears to an Inspector that any nuisance or sanitary defect in or in relation to a shop or office 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 :—

(1.) He shall give notice of such nuisance or sanitary defect to the Health Officer or local authority within whose district the nuisance or defect exists, and it shall be the

Assistant's health likely to contaminate articles of food.

Proceedings may be taken under other Acts.
1894, No. 31, ss. 34 and 35, altered.

duty of such Health Officer or local authority to take all necessary action under such enactment in order to effectually abate such nuisance or remedy such defect.

- (2.) For the purposes of this Act, or of any such enactment as aforesaid, the Inspector may take with him into a shop or office any Health Officer, Inspector of Nuisances, surveyor, or other officer of any local authority; and every such officer may at all reasonable times enter and inspect any shop or office. 5
- (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. 10

Provisions as to requisitions by Inspector.

33. With respect to requisitions under this Act by the Inspector to the occupier of a shop or office, the following provisions shall apply :— 15

- (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 *two* hereof, under his usual business name or style. 20
- (2.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the shop or office.
- (3.) The requisition, when served as aforesaid, shall bind every person who by section *two* hereof is included in the definition of "occupier." 25
- (4.) If the occupier considers the requisition to be unreasonable he may appeal to the Stipendiary Magistrate, by filing in the Magistrate's Court House nearest to the shop or office, a notice of appeal in the prescribed form, setting forth with reasonable particularity the grounds of the appeal. 30
- (5.) The appeal shall be void unless the notice of appeal is duly filed as aforesaid within three days after service of the requisition. 35
- (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. 40
- (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. 45

Offences, Penalties, and Procedure.

Provisions to be observed by occupier.

34. In every case where by this Act—

- (1.) Any rule is required to be observed in a shop or office; or
 (2.) Any requisition of an Inspector is served on the occupier of a shop or office; or 50

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

5 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.

35. If any person—

- 10 (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
- 15 (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
- 20 untrue in any material particular,—

Penalties for forging, &c., any document. 1894, No. 31, ss. 70, 71.

that person commits an offence, and for each such offence shall be liable to a penalty not exceeding *twenty* pounds, or to imprisonment with or without hard labour for not more than *three* months.

25 36. 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.

General penalties for breach of Act.

30 37. 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 :

Offences, how tried. 1894, No. 32, ss. 20, 21, altered. 1895, No. 59, s. 14.

Provided that where the occupier of a shop or office is charged with an offence the following special provisions shall apply :—

- 35 (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 charge against the occupier may be adjourned for such time as the Magistrate thinks reasonable.
- 40 (2.) If the charges are heard together, and the offence is proved, but the occupier satisfies the Magistrate 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.
- 45 (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-
- 50

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.

Evidence of
employment.
1894, No. 31, s. 77.

38. In any proceedings against the occupier of a shop or office for employing any assistant therein in breach of this Act, the fact of the assistant being found in the shop or office shall be conclusive evidence that he was then being employed therein, unless the defendant satisfies the Court that the assistant was not being employed but was there either against the orders and without the knowledge, consent, or connivance of the occupier. 5 10

Magistrate may
order work to be
done.

39. If, in any proceedings against any person for any offence against this Act, the defendant is the occupier of a shop or office, and the offence consists of the non-observance of any rule or Inspector's requisition relating to sanitation, or to the prevention of accidents, the following special provisions shall apply:— 15

- (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 or requisition, and may specify a time within which the order shall be obeyed. 20
- (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 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. 25
- (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. 30
- (5.) Such last-mentioned penalty shall be irrespective of the penalty in respect of the original offence. 35

Proceedings by
Inspector.
1894, No. 32, s. 23,
altered.
1895, No. 59, s. 15.

40. With respect to proceedings by an Inspector against any person for any offence against this Act the following provisions shall apply:—

- (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: 40

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. 45

- (2.) The proceedings shall be deemed to be commenced when the information or complaint is laid or made by the Inspector. 50

- (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.
- 5 (4.) It shall be sufficient to allege that a shop or office is a shop or office without more.
- (5.) It shall be sufficient to state the name of the ostensible occupier of a shop or office, or the style or title under which the occupier is usually known or carries on business.
- 10 (6.) It shall lie on the defendant to bring himself under any exemption, proviso, excuse, or qualification, and it shall not be necessary for the Inspector to negative the same in the information or complaint.
- 15 (7.) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form.
- (8.) The Inspector, and every other person who may be dissatisfied with the judgment of the Court on any summary proceedings under this Act, may appeal to the Supreme Court, or to a District Court, in the manner provided by "The Justices of the Peace Act, 1882."
- 20

41. The fact that an occupier is liable to a penalty under this Act 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

Civil liability of occupier not affected.

Miscellaneous Provisions.

42. It shall be the duty of every Inspector to see that the provisions of this Act are properly carried out, and to prosecute all parties guilty of any breach thereof.
- 30 43. (1.) The Governor may from time to time make regulations for any purposes for which, in his opinion, they are contemplated or required by this Act, and therein may impose any penalty not exceeding *five* pounds for any breach thereof.
- (2.) All such regulations shall come into force on the date of the gazetting thereof.
- 35 44. All fees and penalties received under this Act shall be paid into the Public Account, and form part of the Consolidated Fund.
- 45 45. All moneys payable for carrying out such of the provisions of this Act as devolve upon local authorities shall be paid and borne out of the ordinary funds of such local authorities.
- 40 46. Nothing in this Act contained shall apply to *bonâ fide* commercial travellers, meaning thereby persons employed by merchants as commercial travelling agents for the purpose of selling goods to or seeking orders for goods from persons who are dealers therein and who buy to sell again.
- 45 47. The Acts specified in the Schedule hereto are repealed: Provided that every closing-day appointed for shops under the repealed Acts, and subsisting at the time of the repeal, shall continue until statutory closing-days are duly appointed under this Act.

Duties of Inspector. 1894, No. 32, s. 21.

Regulations.

Application of fees and penalties.

Local authorities may use local funds.

Act not to apply to commercial travellers.

Repeal.

Schedule.

SCHEDULE.

1894, No. 32.—“ The Shops and Shop-assistants Act, 1894.”

1895, No. 59.—“ The Shops and Shop-assistants Act Amendment Act, 1895.”

1896, No. 33.—“ The Shops and Shop-assistants Act Amendment Act, 1896.”

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