

1585.

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 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, 1901."
2. In this Act, unless inconsistent with the context,—
"Borough" includes city:

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

“Inspector” means any Inspector of Factories appointed under “The Factories Act, 1894” :

“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, office, or warehouse, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a shop, office, or warehouse ; and 5

In shops, offices, or warehouses occupied by a body of persons, corporate or unincorporate, the working manager shall also be deemed to be included in the term “occupier” : 10

“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 : 15

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 : 20

“Office-assistant” means any person employed in any office as defined by this Act : 25

“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 : 30

“Shop” means any building or place in which goods are kept or exposed or offered for sale, 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— 35

(a.) Apprentices and improvers ; and also 40

(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. 45

(1.) SHOPS.

Hours of Employment, &c.

Hours of
employment.
1894, No. 32, sec. 12,
extended

3. (1.) Subject to the provisions of this Act, a 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 50

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

(c.) For more than four hours continuously (except on half-holidays), without an interval of at least one hour for dinner; nor

(d.) At any time between the hours of six o'clock in the evening and eight in the morning, except on one day in each week as aforesaid; nor

(e.) At any time after one o'clock in the afternoon of one working-day in each week, which day shall (subject to the provisions of section *fourteen* hereof) be the day on which the shop is required to close, as hereinafter provided:

(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 thirty days in any one year:

Provided that on every such occasion the shop-assistant shall not be employed for more than four hours continuously without having an interval of at least half an hour for rest and refreshment:

Provided also that every shop-assistant employed during such extended hours shall be paid therefor at half as much again as the ordinary rate, but the overtime rate shall not be less than *sixpence* per hour for those assistants whose ordinary wages do not exceed *ten* shillings a week, nor *ninepence* per hour for all other assistants so employed, and shall be paid at the first regular pay-day thereafter.

4. In order to prevent any evasion or avoidance of the limitation imposed on the employment of shop-assistants by the *last preceding* section, the following provisions shall apply in the case of every shop-assistant:—

Special provision as to hours of employment.

(1.) The shop-assistant shall not be employed in or about the shop or its business during the interval for dinner or for rest and refreshment.

(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.

1896, No. 33, secs. 4, 5

5. With respect to female shop-assistants, the following provisions shall apply:—

Sitting accommodation for women.

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

(2.) They shall be allowed to avail themselves of such 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.

1894, No. 32, sec. 15

Provisions relating to Payment of Wages.

6. In order to prevent shop-assistants being employed in shops without reasonable remuneration in money, the following provisions shall apply:—

Wages must be paid
1899, No. 11,
extended

- (1.) Every person who is employed in any capacity in a shop 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 under sixteen years of age, and five shillings per week for boys under seventeen years of age, and six shillings per week for other shop assistants under twenty years of age. 5
- (2.) Such rate of payment shall in every case be irrespective of overtime.
- (3.) Payment shall be made in full at weekly or other intervals as agreed on, being in no case longer than fortnightly intervals. 10
- (4.) If the occupier makes default for fourteen days in the full 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. 15
- (5.) Without affecting the other civil remedies for the recovery of money payable under this section to a shop assistant, civil proceedings for the recovery thereof may be taken by the Inspector, in the name and on behalf of the person entitled to payment, in any case where the Inspector is satisfied that default in payment has been made. 20
- (6.) No premium in respect of the employment of any shop-assistant shall be paid to or be received by the occupier, whether such premium is paid by the shop-assistant employed or by some other person; and if the occupier commits any breach of the provisions of this subsection he shall be liable to a penalty not exceeding *ten* pounds. 25
- (7.) In any case where a premium has been paid or received in breach of the *last preceding* subsection, or where the occupier has made any deduction from wages, or received from the shop-assistant, or from any person on behalf of the shop-assistant, 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 the Inspector in the name and on behalf of the shop-assistant concerned. 30 35 40

Weekly Half-holiday.

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"Separate district."
1894, No. 32, sec. 9,
altered

7. (1.) Every borough or town district not comprised in a combined district, and every road district, shall, for the purposes of this Act, be deemed to be a "separate district."

"Combined district."

(2.) 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

(3.) The Minister shall, by notice in the *Gazette*, specify each combined district, and the respective boroughs and town districts comprised therein; and such *Gazette* notice shall be conclusive evidence of the matters stated therein. 50

Shops to close on
statutory closing-
day.

Ibid, sec. 6

8. (1.) Except as hereinafter specially provided, all shops, whether in a separate or a combined district, shall be closed on

one working-day of each week at the hour of one o'clock in the afternoon for the remainder of that day.

(2.) Such day (hereinafter referred to as "the statutory closing-day") shall in every case be one and the same working-day in the same separate or combined district.

(3.) A shop shall be deemed not to be closed within the meaning of this Act if it is not locked or otherwise effectually closed against the admission of the public, or if its occupier or any of his assistants in his behalf are engaged in canvassing for orders or delivering goods to customers.

1894, No. 32, sec. 2.

9. The statutory closing-day in each separate district shall be appointed in manner following:—

Appointment of statutory closing-day in separate districts.

Ibid, sec. 9, altered

(1.) A special meeting of the local authority of the separate district shall be held in the month of January in each year, of which notice by advertisement shall be given at least seven days before the day of meeting.

(2.) At such meeting the local authority shall by resolution decide what working-day in the week shall be the statutory closing-day.

(3.) 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* in the month of February following, appoint that day to be the statutory closing-day in the separate district.

10. The statutory closing-day in each combined district shall be appointed in manner following:—

In combined districts.

(1.) 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 in the month of January in each year.

(2.) At such conference the constituent local authorities shall, by resolution, decide what working-day shall be the statutory closing-day.

(3.) 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* in the month of February following, appoint that day to be the statutory closing-day in the combined district.

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

Proceedings of conference.
Ibid, sec. 11, altered

(1.) Each of the constituent local authorities (other than a City Council) shall appoint one of its members to be a delegate.

(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.

(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.

- (5.) The meeting of the conference shall be held at the time so fixed, and at the office of the convening local authority. 5
- (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 so to do, then the Mayor or Chairman of the convening local authority shall be Chairman of the conference. 10
- (8.) The proceedings of the conference shall not be affected by the fact that the full number of delegates has not been appointed. 15
- (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. 20

When Minister may appoint statutory closing-day.
1894, No. 32, sec. 10;
1895, No. 59, sec. 10

12. In every case where for any reason the statutory closing-day 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 in that district such working-day as he thinks fit. 25

Notice of statutory closing-day to be gazetted.
1894, No. 32, sec. 9

13. (1.) The statutory closing-day appointed by the Minister shall, in the case of each separate or combined district, be the statutory closing-day in such district on and from the first day of March next following the appearance of the *Gazette* notice appointing the same and during the ensuing twelve months 30

(2.) Such *Gazette* notice shall in the case of a combined district specify each borough and town district comprised therein. 35

(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 in the separate or combined district specified therein.

14. The provisions of section *eight* hereof, relating to the closing of shops on the statutory closing-day, shall be subject to the exceptions and modifications following:— 40

Excepted shops.
Ibid, sec. 3

(1.) (*a.*) In the case of any shop wherein is exclusively carried on any one or more of the businesses of a fishmonger, a fruiterer, a confectioner, or a bookstall-keeper on a railway-station, the occupier shall not be required to close his shop on any working-day: 45

Provided that if any person carrying on any business excepted by this subsection carries on in conjunction therewith any other business not hereby excepted, then such person shall observe the statutory closing-day, and close his shop accordingly: 50

Provided also that the provisions of this subsection shall not affect the right of any shop-assistant employed in any such excepted

shop to a half-holiday from one o'clock in the afternoon of such working-day in each week as the occupier, in the case of each individual shop-assistant, thinks fit.

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

5 A "fishmonger" means a person of New Zealand or European extraction whose business is to sell fish or shell-fish ;

A "fruiterer" means a person of New Zealand or European extraction whose business is to sell fresh fruit or vegetables ;

10 A "confectioner" means a person of New Zealand or European extraction whose business is to sell confections or sweetmeats.

(2.) In the case of any shop wherein is carried on the business of a butcher, a hairdresser, or a photographer, the occupier may, in the event of Saturday being appointed as the statutory closing-day in the district, close his shop at the hour of one in the afternoon for the remainder of the day on some other working-day in each week, as he thinks fit, in lieu of the statutory closing-day: 1894, No. 32, sec. 10, altered

15 Provided that he lodges with the Inspector during the month of January in each year a notice stating on what working-day in the week he intends to close his shop in lieu of the statutory closing-day.

(3.) In the event of any day other than Saturday being appointed as the statutory closing-day in the district, then the occupier of any shop shall be entitled to close his shop on Saturday in lieu thereof:

20 Provided that he lodges with the Inspector during the month of January in each year a notice of his desire so to do.

(4.) In any of the following cases the occupier of a shop may keep his shop open on the statutory closing-day after the prescribed time of closing, that is to say,—

(a.) In the case of a shop situate at a seaport, and kept open as aforesaid solely for the purpose of supplying goods to any ship arriving at the port on that day ; and Ibid, sec. 7, altered

(b.) 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 ; and 1895, No. 59, sec. 8

(c.) In the case of a chemist's shop between the hours of seven and nine in the evening, for the supply of medicines and surgical appliances only. 1894, No. 32, sec. 4

15. The following provisions shall apply with respect to the following special days, that is to say: Christmas Day, New Year's Day, Good Friday, Easter Monday, Labour Day, the birthday of the reigning Sovereign, and any day which pursuant to proclamation by the Governor, or declaration by the Government, is generally observed as a public holiday or half-holiday:— Special holidays.
Ibid, No. 32, sec. 4, altered

(1.) Where any such special day falls on another day than the statutory closing-day, 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. Ibid, sec. 3; 1895
No. 59, sec. 7

- (2.) Where any such special day 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. 5
- (3.) Where any such special day falls on a Sunday or Monday, the occupier of a shop which is usually closed for a half-holiday on Saturday may keep his shop open on the Saturday next preceding such special day, provided that he gives his shop-assistants a half-holiday on some other working-day in that week. 10
- (4.) 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 that district. 15

In case of shop and factory combined. 1896, No. 33, sec. 4

16. 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 the purposes of the weekly half-holiday and the wages therefor, be deemed to be employed exclusively in that part of the establishment in which he is chiefly employed, as certified by the Inspector. 20

Wages to be paid for half-holiday.

17. The wages or salary of every shop-assistant for the half-holiday hereinbefore provided shall be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day after the half-holiday. 25

Assistants in hotels, &c., to have half-holiday. 1894, No. 32, sec. 8, altered

18. (1.) For the purpose of extending the benefits of this Act relating to the weekly half-holiday and wages therefor to persons employed as assistants in hotels, eating-houses, or restaurants, but for no other purpose,— 30

- (a.) Every hotel, eating-house, or restaurant shall be deemed to be a shop ;
- (b.) Every keeper of an hotel, eating-house, or restaurant shall be deemed to be an occupier of a shop ; and
- (c.) Every person employed in the hotel, eating-house, or restaurant shall be deemed to be a shop-assistant. 35

(2.) The half-holiday to which a shop-assistant is entitled under this section may be on such working-day as, in the case of each individual shop-assistant, the occupier thinks fit.

(3.) Nothing herein shall be deemed to compel the keeper of any hotel, eating-house, or restaurant to close his premises for a half-holiday on any working-day. 40

As to Hawkers.

Hawkers deemed to be "occupiers." 1896, No. 33, sec. 3

19. With respect to hawkers and other persons who carry on business by selling or offering goods for sale by retail otherwise than in a shop, the following provisions shall apply :— 45

- (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. 50
- (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.

(2.) OFFICES.

Closing-hour for Offices.

20. (1.) 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 :

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

(2.) An office shall be deemed not to be closed within the meaning of this Act unless it is locked or otherwise effectually closed against the admission of the public.

21. (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 : Provided that he lodges 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, a notice of his desire so to do.

(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.

22. The wages or salary of every office-assistant for the half-holiday hereinbefore provided shall be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day after the half-holiday.

Employment of Office-assistants.

23. (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.

(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.

(3.) In any case where an office-assistant is engaged in work connected with his employment in any place other than the office of his employer he shall while so engaged be deemed to be employed in the office within the meaning of this section.

24. (1.) It shall not be deemed to be a breach of the *last preceding* section if, while 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 :—

(a.) 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.

(b.) In the case of a ledger-keeper, for the purpose of the periodical balance of his ledger.

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

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 *four* weeks at each 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. 5

(d.) 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 : 10

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.

(e.) 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. 15

(2.) Every person who is employed during such extended hours under paragraphs (c), (d), and (e) of the *last preceding* subsection shall be paid therefor at half as much again as the ordinary rate, but the overtime rate shall not be less than one shilling per hour, and shall be paid at the first regular pay-day thereafter. 20

Extra-time book.

25. (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, the name of the assistant, and the respective dates, periods, and purposes of such employment. 25

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

(3.) The Inspector may at any time require the occupier to verify the entries in the extra-time book by statutory declaration in such form as may be prescribed by regulations. 30

(3.) WHOLESALE WAREHOUSES.

Working hours in
wholesale ware-
houses.

26. (1.) Every wholesale warehouse shall be closed not later than one of the clock in the afternoon on Saturday, and six of the clock in the afternoon on every other working-day, and shall continue closed for the remainder of the day. 35

(2.) A wholesale warehouse shall be deemed not to be closed within the meaning of this Act unless it is locked or otherwise effectually closed against the admission of the public. 40

(3.) In the event of any other day than Saturday being appointed as the closing-day for shops in any district, the occupier of a wholesale warehouse in such district shall be entitled to close his warehouse on that day in lieu of Saturday: Provided that he lodges with the Inspector during the month of January in each year, or within one month after a wholesale warehouse is first opened for business, as the case may be, a notice of his desire so to do. 45

(4.) The wages or salary for the half-holiday hereby provided for every person employed in a wholesale warehouse shall be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day after the half-holiday. 50

(5.) A person employed in a wholesale warehouse shall not be employed in or about the warehouse or its business after the expiration of half an hour after the hour when by this Act the warehouse is required to be closed for the day.

5 (6.) It shall not be deemed to be a breach of the *last preceding* subsection if, whilst a wholesale warehouse is by this Act required to be closed, a person is employed therein for the purposes of stock-taking: Stock-taking.

10 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 four weeks at each stock-taking, nor unless at least two weeks' previous written notice of the date of the stock-taking has been given by the occupier of the wholesale warehouse to the Inspector.

15 (7.) Every person who is employed during such extended hours under the *last preceding* subsection shall be paid therefor at half as much again as the ordinary rate, but the overtime rate shall not be less than one shilling per hour, and shall be paid at the first regular pay-day thereafter.

(4.) SANITATION OF SHOPS, OFFICES, AND WAREHOUSES.

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

Sanitary rules.
1894, No. 32, sec. 17
altered; 1895, No.
59, sec. 12

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

25 (2.) Sufficient privy accommodation shall be provided for all persons employed in the shop, office, or warehouse, 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.

30 (3.) The shop, office, or warehouse shall not be overcrowded so as to injuriously affect the health of the persons employed therein.

35 (4.) The shop, office, or warehouse 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 therein.

40 (5.) Without limiting the operation of the *last preceding* subsection, 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.

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

50 (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, office, or warehouse.

In food shops.

28. 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,— 5

(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 him to submit himself for examination to a medical authority. 10

(2.) Immediately upon service of such notice the person so employed shall cease to do any work in that 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. 15

(3.) If that person does any work in or about that 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 breach of this section. 20

(4.) In like manner the Inspector shall serve on the occupier of the shop a notice forbidding the employment of that person until he has produced a certificate as hereinbefore required. 25

(5.) If the occupier of the shop, after service upon him of the said notice, employs that person, he shall be liable to the same penalty as is hereinbefore provided in the case of the person so employed. 30

Proceedings under other Acts. 1894, No. 31, secs. 34, 35, altered

29. Where it appears to an Inspector that any nuisance or sanitary defect in or in relation to a shop, office, or warehouse 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 provisions shall apply:— 35

(1.) He shall give notice of such nuisance or sanitary defect to the District Health Officer or local authority within whose district the nuisance or defect exists, and it shall be the duty of that District Health Officer or local authority, as the case may be, to take all necessary action under such enactment in order to effectually abate such nuisance or remedy such defect. 40

(2.) For the purposes of this Act, or of any such enactment as aforesaid, the Inspector may take with him into a shop, office, or warehouse any District 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, office, or warehouse. 45

(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. 50

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

Inspector's
requisitions.

- (1.) The requisition shall be in writing under the hand of the Inspector, and shall be addressed to and served on the occupier as defined in section *two* hereof, under his usual business name or style.
- (2.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the shop, office, or warehouse.
- (3.) The requisition, when served as aforesaid, shall bind every person who by section *two* hereof is included in the definition of "occupier."
- (4.) If the occupier considers the requisition to be unreasonable he may appeal to the Magistrate, by filing in the Magistrate's Court nearest to the shop, office, or warehouse 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 *seven* days after service of the requisition.
- (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.
- (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.

(5.) OFFENCES, PENALTIES, AND PROCEDURE.

31. In every case where by this Act—

- (1.) Any rule is required to be observed in a shop, office, or warehouse ; or
- (2.) Any requisition of an Inspector is served on the occupier of a shop, office, or warehouse ; or
- (3.) Any requirement, obligation, or provision is imposed or enacted with respect to a shop, office, or warehouse, the conduct of its business, the treatment of the persons employed therein, or otherwise,—

Occupier to comply
with rules and
requisitions.

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 so to do he commits an offence.

32. Every person who—

- (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

Forgery and false
entries.
1894, No. 31, secs.
70, 71

(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,—

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

Where no specific penalty imposed. 1895, No. 59, sec. 16

33. Every person who commits any offence against this Act for which no specific penalty is provided elsewhere than in this section is 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 committed after the first day.

Proceedings to be before Magistrate alone.

1894, No. 32, sec. 22

Liability of other person in fault.

Ibid, No. 31, secs. 72, 73

34. 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.

35. Where the occupier of a shop, office, or warehouse is charged with an offence the following provisions shall apply:—

(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.

(2.) If the charges are heard together, and the offence is proved, but the occupier satisfies the Magistrate that it was, in fact, committed 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.

(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, whereupon the provisions of the *last preceding* subsection shall, *mutatis mutandis*, apply, and if such other person is convicted (but not otherwise) the occupier shall cease to be liable.

Evidence of employment. Ibid, sec. 77

36. In any proceedings against the occupier of a shop, office, or warehouse for employing any assistant therein in breach of this Act, the fact of the assistant being found in the shop, office, or warehouse 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 or without the knowledge, consent, or connivance of the occupier.

Magistrate may order work to be done.

37. If, in any proceedings against any person for any offence against this Act, the defendant is the occupier of a shop, office, or warehouse, 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 provisions shall apply:—

- 5 (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.
- (2.) The time so specified may be extended by the Magistrate on the application of the defendant.
- 10 (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, impose no penalty in respect of the offence.
- 15 (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 is liable to a penalty not exceeding *ten* pounds for every day during which such offence continues.
- 20 (5.) Such last-mentioned penalty shall be irrespective of the penalty in respect of the original offence.

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

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

- 25 (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:
- 30 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.
- (2.) The proceedings shall be deemed to be commenced when the information or complaint is laid or made by the Inspector.
- 35 (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.
- 40 (4.) It shall be sufficient to allege that a shop, office, or warehouse is a shop, office, or warehouse without more.
- (5.) It shall be sufficient to state the name of the ostensible occupier of a shop, office, or warehouse, or the style or title under which the occupier is usually known or carries on business.
- 45 (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.
- 50 (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."

Liability to penalty does not relieve from payment of wages.

39. 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.

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(6.) MISCELLANEOUS.

Inspector to see Act carried out. 1894, No. 32, sec. 21

40. 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.

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Regulations.

41. (1.) The Governor may from time to time make regulations for any purposes contemplated or required by this Act.

(2.) All such regulations shall come into force on the date of the gazetting thereof.

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Fees payable to Public Account.

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

Expenses of local authorities.

43. 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.

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Commercial travellers excepted from Act. 1896, No. 33, sec. 2

44. Nothing in this Act contained shall apply to *bona 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.

25

Repeal.

45. The Acts specified in the Schedule hereto are hereby 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.

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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."