

## SHOPS AND OFFICES BILL.

### MEMORANDUM.

Clause 2: "Private hotels" are included in the definition of "hotels" instead of in the definition of "restaurant" as at present, and the definition of "hotel" is further extended to include a private boardinghouse in which three or more persons (other than the occupier and his family) are ordinarily employed.

Clause 3: This clause, together with clause 5 (3), has been substituted for section 13 of the Shops and Offices Amendment Act, 1910. The effect of the alteration is that partners, other than the registered occupier, are deemed to be shop-assistants only for the purposes of section 5 and not generally (as at present), and then only while the shop is open for business.

Clause 4 (3): This subclause has been extended, particularly to ensure compliance with the provisions of clause 11 (as to payment of shop-assistants).

Clause 8 (4): This provision is for the purpose of bringing the law into line with the corresponding provisions in section 24 (1) of the Factories Act, 1908.

Clause 11 (a): The alterations in this paragraph are for the purpose of bringing the law into line with the corresponding provisions in section 32 of the Factories Act, 1908.

Clause 11 (d): "Default for seven days" has been substituted for "default for fourteen days," thus bringing the provision into line with the corresponding provisions of the Factories Act, 1908 (section 32 (d)).

Clause 17 (b): The corresponding section in the present Act (section 18 (b)) applies to butchers, hairdressers, tobacconists, and photographers, and allows any such person, in districts where Saturday is observed as the statutory half-holiday, to close his shop on such other day of the week as he thinks fit. The present clause is restricted to butchers and pork-butchers (as defined in clause 5), and empowers the Minister to fix the day (other than Saturday) on which such persons may close their shops for the statutory half-holiday.

Clause 23: This clause prescribes the closing-hours of shops in the Cities of Auckland, Wellington, Christchurch, and Dunedin and the adjoining boroughs or town districts. The provisions of this clause are extended by clause 51, with which it should be read.

Clause 24 (7), (8): The provisions of these subclauses are substituted for subsection eight of section 25 of the Shops and Offices Act, 1908, as amended by the Shops and Offices Amendment Act, 1910 (Schedule). The provisions of the present Act refer only to the sale of tobacco, cigars, and cigarettes; the Bill extends to all classes of goods commonly sold in shops which are required to be closed at a prescribed hour.

Clause 32: This clause should be read with subclause (8) of clause 24. The effect of these provisions is to prohibit the sale by the occupiers of hotels or restaurants of any goods of a kind commonly sold in shops while those shops are required to be closed. The present law is contained in the Shops and Offices Amendment Act, 1910 (Schedule, amending section 25), and applies only to the sale of tobacco, cigars, and cigarettes by the occupiers of hotels (not including restaurants) on the statutory half-holiday.

Clause 33, proviso: The reference to the offices of solicitors, mining companies, and miners' unions, has been omitted from the definition of "office" in clause 2, and inserted in this proviso. The difference in effect is that the provisions of clause 37 (relating to sanitation, &c.) will hereafter apply to offices of this description.

Clause 43: By this clause any shop-assistant may be employed for fifteen minutes after the prescribed time of closing. The present provision allows an extension of half an hour, but applies only to assistants employed off the premises of the shop.

[AS REPORTED FROM THE LABOUR BILLS COMMITTEE.]

House of Representatives, 24th October, 1913.

Hon. Mr. Massey.

## SHOPS AND OFFICES.

### ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"><li>1. Short Title and commencement.</li><li>2. Interpretation.</li></ol> <p style="text-align: center;">SHOPS.</p> <p style="text-align: center;"><i>Registration.</i></p> <ol style="list-style-type: none"><li>3. Registration of shops.</li></ol> <p style="text-align: center;"><i>Records to be kept.</i></p> <ol style="list-style-type: none"><li>4. Occupier to keep a wages and time book, and to enter therein particulars as to assistants.</li></ol> <p style="text-align: center;"><i>Hours of Employment, &amp;c.</i></p> <ol style="list-style-type: none"><li>5. Limit of employment of shop-assistants.</li><li>6. Hour of commencement of employment.</li><li>7. Late closing on Christmas Eve and New Year's Eve.</li><li>8. Hours of employment.</li><li>9. Special provision as to hours of employment.</li><li>10. Sitting-accommodation for women.</li></ol> <p style="text-align: center;"><i>Payment of Wages.</i></p> <ol style="list-style-type: none"><li>11. Provisions as to payment of shop-assistants.</li></ol> <p style="text-align: center;"><i>Weekly Half-holiday.</i></p> <ol style="list-style-type: none"><li>12. "Separate districts." "Combined districts." Alterations of districts. New districts.</li><li>13. Shops to close on statutory closing-day.</li><li>14. Poll of electors to determine statutory closing-day.</li><li>15. Appointment of statutory closing-day in separate districts. In combined districts. Minister may in certain cases appoint statutory closing-day.</li><li>16. Notice of statutory closing-day to be gazetted.</li><li>17. Excepted shops.</li><li>18. Special holidays.</li><li>19. When shop deemed not to be closed.</li><li>20. In case of shop and factory combined.</li><li>21. Wages to be paid for half-holiday.</li><li>22. Hairdresser who lets his chairs to be deemed an employer.</li></ol> <p style="text-align: center;"><i>Closing in certain Districts.</i></p> <ol style="list-style-type: none"><li>23. Hours of closing in cities.</li></ol> <p style="text-align: center;"><i>Closing by Requisition.</i></p> <ol style="list-style-type: none"><li>24. Fixing closing-hours of shops.</li></ol> <p style="text-align: center;"><i>As to Hawkers.</i></p> <ol style="list-style-type: none"><li>25. Hawkers deemed to be occupiers.</li></ol> <p style="text-align: center;"><i>As to Hotels and Restaurants.</i></p> <ol style="list-style-type: none"><li>26. Certain provisions of Act not to apply to hotels and restaurants.</li><li>27. Hours of employment.</li><li>28. Accumulated holidays.</li></ol> | <ol style="list-style-type: none"><li>29. Alternative provision as to half-holidays in hotels.</li><li>30. Notice in respect of holidays and working-hours.</li><li>31. Provisions of awards, &amp;c., to prevail while in force.</li><li>32. Occupiers of hotels or restaurants not to sell certain goods on half-holidays or after hours.</li></ol> <p style="text-align: center;">OFFICES.</p> <p style="text-align: center;"><i>Closing-hour for Offices.</i></p> <ol style="list-style-type: none"><li>33. Office hours.</li><li>34. Provision for closing on statutory closing-day.</li><li>35. Wages to be paid for half-holiday.</li></ol> <p style="text-align: center;"><i>Employment of Office-assistants.</i></p> <ol style="list-style-type: none"><li>36. Employment after office hours. Exemptions. Extra-time book.</li></ol> <p style="text-align: center;">SANITATION, ETC., OF SHOPS AND OFFICES.</p> <ol style="list-style-type: none"><li>37. Rules as to sanitation, &amp;c.</li><li>38. Persons suffering from certain diseases not to be employed in food and clothing shops.</li><li>39. Proceedings under other Acts.</li><li>40. Inspector's requisitions.</li></ol> <p style="text-align: center;">OFFENCES AND PROCEDURE.</p> <ol style="list-style-type: none"><li>41. Occupier to comply with rules and requisitions.</li><li>42. Forgery and false entries.</li><li>43. Employment of assistant after prescribed time.</li><li>44. Evidence of employment.</li><li>45. Where no specific fine imposed.</li><li>46. Proceedings to be before Magistrate alone.</li><li>47. Liability of other person in fault.</li><li>48. Magistrate may order work to be done.</li><li>49. Proceedings by Inspector.</li><li>50. Liability to fine not to relieve from payment of wages.</li></ol> <p style="text-align: center;">MISCELLANEOUS.</p> <ol style="list-style-type: none"><li>51. Requisitions as to closing-hours of certain shops.</li><li>52. Inspector to see Act carried out.</li><li>53. Inspectors' powers.</li><li>54. Commercial travellers excepted from Act.</li><li>55. Exception as to tending horses.</li><li>56. Newspaper offices excepted for certain purposes.</li><li>57. Regulations.</li><li>58. Fines payable to Public Account.</li></ol> <p style="text-align: center;"><i>Repeals.</i></p> <ol style="list-style-type: none"><li>59. Repeals. Savings. Schedules.</li></ol> |
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## A BILL INTITULED

Title.	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 :—	5
Short Title and commencement.	1. This Act may be cited as the Shops and Offices Act, 1913, and shall commence on the first day of April, nineteen hundred and fourteen.	
Interpretation. 1908, No. 179, sec. 2. Cf. 1910, No. 61, sec. 2.	2. In this Act, if not inconsistent with the context,— “Borough” includes city : “Hotel” means any premises in respect of which a publican’s license is granted under the Licensing Act, 1908; and includes a private hotel and a private boardinghouse in which three or more persons (other than the occupier and the members of his family) are ordinarily employed; and “restaurant” means any premises (other than an hotel) in which meals are provided and sold to the general public for consumption on the premises, and whether or not lodging is provided for hire for the accommodation of persons who desire to lodge therein, and includes a tea-room and an oyster-saloon :	10
1908, No. 179, sec. 2.	“Inspector” means an Inspector of Factories appointed under the Factories Act, 1908 :	
	“Minister” means the Minister of Labour :	25
	“Occupier” means any 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 in shops or offices occupied by a body of persons, corporate or unincorporate, also includes the working manager :	30
	“Office” means any building in which any person is employed, directly or indirectly, to do any clerical work in connection with any mercantile or commercial business or calling carried on therein by the occupier thereof; but does not include any building or room in which the clerical work of a factory or shop is carried on if situate within the factory or shop :	35
	“Office-assistant” means any person employed in any office as defined by this Act :	40
	“Prescribed” means prescribed by this Act or by regulations made under this Act :	
	“Privy” includes water-closet, earth-closet, and urinal :	
Ibid., sec. 2. 1910, No. 61, sec. 3.	“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, and includes an hotel and a restaurant; but does not include a warehouse doing exclusively a wholesale business :	45
Ibid., sec. 2. 1910, No. 61, sec. 3.	“Shop-assistant” means any person (whether a member of the occupier’s family or not) who is employed in or about the business of a shop, and includes all persons in the	50

occupier's employment who are engaged in selling or delivering goods or canvassing for orders for goods, whether such persons are at any time actually employed inside the shop or not, *and includes all workers in and about hotels and restaurants:*

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

## SHOPS.

*Registration.*

3. (1.) Every shop shall be registered with an Inspector by the occupier or occupiers thereof in the name of the occupier or of one of the occupiers, and such registration shall not be altered except for some sufficient reason to the satisfaction of the Inspector.

Registration of shops.  
Cf. 1910, No. 61, sec. 13.

*New.*

(2.) If any shop is not registered within fourteen days after the service on the occupier or on any of the occupiers thereof of a notice in writing in that behalf, signed by the Inspector, the occupier or each of the occupiers thereof, as the case may be, shall be deemed to have committed a breach of the provisions of this Act, and shall be liable accordingly.

(3.) A shop shall not be registered in the name of an employee of the owner unless the Inspector is satisfied that such employee is substantially in control of the business of the shop.

*Records to be kept.*

4. (1.) The occupier of a shop in which one or more shop-assistants are employed shall at all times keep, in the prescribed form, or in such other form as may be approved by the Inspector, a record in English (called the wages and time book) showing in the case of each assistant—

Occupier to keep a wages and time book, and to enter therein particulars as to assistants.  
1910, No. 61, sec. 12.

- (a.) The name of the assistant, together with his age if under twenty years of age ;  
 (b.) The kind of work on which he is ~~from time to time~~ usually employed ;  
 (c.) ~~The hours of his employment during each week.~~

*New.*

- (c.) The time for which he has been actually employed in each day ;  
 (cc.) The total time for which he has been so employed in each week.

- (d.) The wages paid to him in respect of each week ; and  
 (e.) Such other particulars as are prescribed by regulations.

(2.) The entry of the particulars hereinbefore referred to shall be signed by the assistant at the time of the payment of his wages, and such signature shall operate ~~not only~~ as a receipt for such payment ~~but~~ also as a certificate of the correctness of the particulars entered with respect to that assistant.

(3.) The wages and time book in use for the time being, and any such book used within the two years immediately preceding the date of inspection, shall be open to the inspection of the Inspector at all reasonable times.

(4.) The Inspector may at any time require the occupier to verify the entries in the wages and time book, in such form as may be prescribed by regulations.

*Hours of Employment, &c.*

Limit of  
employment of  
shop-assistants.

Cf. 1908, No. 179,  
sec. 3 (1).  
1910, No. 61, sec. 15.

5. (1.) Subject to the provisions of this Act ~~and to any award~~ 5  
~~of the Arbitration Court~~, a shop-assistant shall not be employed—

(a.) In or about any shop in which any one or more of the 10  
trades or businesses mentioned in the *First* Schedule  
hereto are exclusively carried on, after the hour set  
opposite to the reference to such trade or business in the  
said Schedule :

*New.*

Provided that the working-day in each week on 15  
which shop-assistants may be employed until the hour  
specified in the third column of the *First* Schedule hereto  
shall be Friday in the case of assistants who are allowed  
the statutory half-holiday on Saturday, and in all other  
cases shall be Saturday :

Provided further that where any special day within 20  
the meaning of section *eighteen* hereof is observed as a  
whole holiday and falls on the day on which assistants  
may be employed as aforesaid until the hour specified in  
the said third column, those assistants may be so employed  
in the evening of the preceding working-day :

Provided *also* that, except on Christmas Eve and New 25  
Year's Eve, no female assistant shall be employed in or  
about any shop ~~in which is exclusively carried on the~~  
~~business of a confectioner or fruiterer after half past~~  
~~nine o'clock in the evening, or in or about any other shop~~  
~~to which this paragraph relates after nine o'clock in the~~ 30  
evening ; or

(b.) In or about any other shop if situate within a combined 35  
district (as hereinafter defined) or a borough having a  
population of five thousand or upwards and not forming  
part of a combined district, after one o'clock in the after-  
noon of the statutory closing-day, nor after nine o'clock  
in the evening of one working-day in each week or six  
o'clock in the evening of any other working-day ; or

(c.) In or about any other shop if situate within a borough not 40  
included in paragraph (b) hereof, after one o'clock in the  
afternoon of the statutory closing-day, nor after nine  
o'clock in the evening of one working-day in each week  
or seven o'clock in the evening of any other working-  
day ; or

(d.) In or about any shop not included in any of the foregoing 45  
paragraphs, after one o'clock in the afternoon of the  
statutory closing-day, nor after such hours (if any) on  
other working-days as may be fixed for the closing of such  
shops pursuant to section *twenty-four* hereof.

(2.) Where, pursuant to the ~~foregoing provisions of this section, provisions of paragraph (b) or paragraph (c) of the last preceding subsection~~ shop-assistants may be employed until ~~or after~~ nine o'clock in the evening of one working-day only in each week, that day shall be Friday in the case of assistants who are allowed the statutory half-holiday on Saturday, and in all other *such* cases shall be Saturday.

*New.*

Provided that where any special day within the meaning of section *eighteen* hereof is observed as a whole holiday and falls on the day on which assistants may be employed as aforesaid until nine o'clock in the evening, those assistants may be so employed in the evening of the preceding working-day.

(2A.) Notwithstanding anything in the foregoing provisions of this section it shall not be unlawful—

(a.) To employ any shop-assistant referred to in paragraph (a) of subsection one hereof for not exceeding thirty minutes after the hour specified in the third column of the First Schedule hereto on one working-day in each week, or for not exceeding fifteen minutes after the prescribed time on any other day; or

(b.) To employ any shop-assistant referred to in subsection two hereof for not exceeding thirty minutes after nine o'clock in the evening of one working-day in each week or for not exceeding fifteen minutes after the prescribed time on any other day—

solely for the purpose of serving customers who are within the shop at the prescribed time and of putting away goods that have been displayed in connection with the business of the shop.

(3.) ~~For the purposes of this section every person engaged in or about the business of a shop, other than the person in whose name the shop is registered pursuant to section three hereof, the wife or husband of that person, and the members of his or her family, as the case may be other than the registered occupier and his wife or her husband, and his or her sons and daughters, as the case may be, shall, while the shop is open for business, be deemed to be a shop-assistant.~~

*Cf.* 1910, No. 61, sec. 13.

(4.) Notwithstanding anything in this Act, it shall not be unlawful for any chemist or chemist's assistant ~~who resides on the premises of the shop~~ to supply at any time medicine or surgical appliances that are urgently required.

*Cf.* 1908, No. 179, sec. 3 (4).

(5.) In this section—

A "baker" means a person whose business is to sell bread or cakes:

*Cf.* 1908, No. 179, secs. 13 (a), 3 (5); 1910, No. 61, sec. 15.

A "butcher" means a person whose business is to sell fresh meat ~~other than pork~~ and small goods:

A "chemist" means a person whose business is to sell medicines, drugs, chemicals, herbal remedies, patent foods, surgical appliances, toilet requisites, or photographic requisites:

A "confectioner" means a person whose business is to sell confections or sweetmeats:

A "dairy-produce seller" means a person whose business is to sell milk, cream, eggs, ~~or~~ butter, and cheese:

- A "fishmonger" means a person whose business is to sell fresh fish, smoked fish, or shell-fish, and includes a person whose business is to sell poultry, rabbits, mutton-birds, or other perishable goods of a like nature :
- A "florist" means a person whose principal business is the sale of cut flowers : 5
- A "fruiterer" means a person whose business is to sell fresh fruit or vegetables :
- A "hairdresser" means a person whose business is to carry on hairdressing, or shaving, or to sell requisites for hair-dressing or for shaving : 10
- A "newsagent" means a person whose business is to sell newspapers and magazines :
- A "pork-butcher" means a person whose business is to sell pork and small-goods : 15
- A "tobacconist" means a person whose business is to sell smoking-requisites and snuff.

Hour of commencement of employment. 1908, No. 179, sec. 4.

Late closing on Christmas Eve and New Year's Eve. Cf. *ibid.*, sec. 5.

6. No shop-assistant shall be employed in or about the business of any shop before the hour of four o'clock in the morning in the case of bakers, ~~butchers~~, *five o'clock in the morning in the case of butchers*, or milkmen, or seven o'clock in the morning in any other case. 20

7. Nothing in this Act shall render it unlawful for the occupier of any shop to keep his shop open or to employ his assistants till eleven o'clock at night on Christmas Eve and New Year's Eve; or when Christmas Day and New Year's Day fall on Monday, then till eleven o'clock at night on the Saturday preceding those days respectively. 25

*New.*

Provided that nothing in this section shall be so construed as to limit or affect the provisions of subsection *five* of the *next succeeding* section (relating to payment for overtime). 30

Hours of employment. *Ibid.*, sec. 6. 1910, No. 61, sec. 15.

8. (1.) 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 35
- (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 five hours continuously without an interval of at least one hour for a meal; nor 40
- (d.) At any time after one o'clock in the afternoon *or for more than five hours* of one working-day in each week, which day shall (subject to the provisions of section *seventeen* hereof) be the day on which the shop is required to close as hereinafter provided. 45
- (2.) The provisions of the *last preceding* subsection relating to the hours of employment of shop-assistants (other than those relating to the statutory half-holiday) shall not apply to any shop-assistant while engaged in delivering goods at the residence of any person situate four miles or upwards from the shop, and not being within three miles of any borough or town district or within any area in which an award of the Court of Arbitration is in force relating to the 50

trade of the occupier, or while engaged in receiving produce or other commodity from any such person :

Provided that the hours of employment under this subsection shall not exceed the hours limited by paragraph (a) of the *last preceding* subsection by more than three hours in any one week.

(3.) For the purposes of stock-taking, or other special work not being the actual sale or delivery of goods, such working-hours may, notwithstanding anything in section *five* hereof, be extended, but not for more than three hours in any one day, nor more than ninety hours in any one year, nor on any half-holiday, *nor at any time while the*

*New.*

shop is open for business. Written notice of every extension of working-hours under this section shall be given to the Inspector within twenty-four hours thereof.

(4.) It shall not be lawful to extend the working-hours of any female assistant or of any male assistant under the age of sixteen years without the previous written consent of the Inspector.

(5.) Every shop-assistant employed during 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 an hour for those assistants whose ordinary wages do not exceed ten shillings a week, nor less than ninepence an hour for all other assistants so employed, and shall be paid at the first regular pay-day thereafter :

Provided that no payment for such extended hours as aforesaid shall be made to any shop-assistant whose wages are or exceed two hundred *and fifty* pounds per annum.

*Struck out.*

(6.) This section shall operate subject to the provisions of this Act, and to any award of the Court of Arbitration :

Provided that an award shall not permit a shop-assistant to be employed in any one week or in any one day a greater number of hours than is prescribed by subsections *one* and *two* hereof.

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

(a.) The shop-assistant shall not be employed in or about the shop or its business during meal-times, or during the intervals for rest and refreshment.

(b.) 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.

(c.) 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.

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

(a.) Reasonable and ~~proper~~ *convenient* sitting-accommodation to the satisfaction of the Inspector shall at all times be provided for ~~them~~ *each assistant employed in the* shop ; and

*Cf.* 1908, No. 179, sec. 6 (3).  
1910, No. 61, sec. 15.

*Cf.* 1908, No. 179, sec. 6 (3).

*Ibid.*

*Cf.* 1908, No. 179, sec. 6 (4).  
1910, No. 61, sec. 15.

Special provision as to hours of employment.  
1908, No. 179, sec. 7.

Sitting-accommodation for women.  
*Ibid.*, sec. 8.



- (b.) They shall be allowed to avail themselves of such accommodation at reasonable intervals throughout the day :
- (c.) 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. 5

*Payment of Wages.*

Provisions as to  
payment of  
shop-assistants.  
Cf. *Ibid.*, sec. 9;  
1910, No. 61, sec. 15.

11. In order to prevent shop-assistants being employed in shops without reasonable remuneration in money the following provisions shall apply :— 10
- (a.) 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 five shillings a week for the first year of employment in the trade, eight shillings a week for the second year, and eleven shillings a week for the third year, and so on, until twenty shillings a week is reached, and thereafter not less than twenty shillings a week. 15
- (b.) Such rate of payment shall in every case be irrespective of overtime. 20
- (c.) Payment shall be made in full at weekly or other intervals as agreed on, being in no case longer than fortnightly intervals. 20
- (d.) If the occupier makes default for seven three days in the full payment of any money payable by him as aforesaid, he shall be liable to a fine not exceeding five shillings for every day thereafter during which such default continues. 25
- (e.) 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. 30
- (f.) No premium in respect of the employment of any shop-assistant shall be paid to or be received by the employer, whether such premium is paid by the shop-assistant employed or by some other person ; and if the employer commits any breach of the provisions of this paragraph he shall be liable to a fine not exceeding ten pounds. 35
- (g.) In any case where a premium has been paid or received in breach of the last preceding paragraph, or where the employer 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 fine to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the employer in civil proceedings instituted by the Inspector in the name and on behalf of the shop-assistant concerned. 40 45

*Weekly Half-holiday.*

12. (1.) Every borough or town district not comprised in a combined district, and every road district, every county in which there are no road districts, and so much of every county as is not included in any road district or town district, shall for the purposes of this Act be deemed to be a "separate district."

"Separate districts."  
1908, No. 179  
sec. 10.

(2.) All boroughs and town districts, any one of which is within one mile of any other, shall be deemed to constitute a "combined district":

"Combined districts."

10 Provided that the Boroughs of Sumner and New Brighton shall not form part of the combined district of Christchurch, but shall each be deemed to be a separate district:

*New.*

15 Provided further that the Eden Terrace Road District shall form part of the combined district of Auckland, and the said road district shall, for the purpose of determining the boundaries of the combined district, be deemed to be a borough:

Provided that the Provincial District of Taranaki shall be a combined district under the Act.

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

25 (4.) Where the boundaries of any district forming a separate district or part of a combined district are altered, that alteration shall operate with respect to the separate district or combined district.

Alterations of districts.  
1910, No. 61, sec. 14.

30 (5.) Where by the constitution of the district of a new local authority a new separate district is created, the statutory closing-day appointed for the area comprised in such new district at the time of its constitution shall continue to be observed until altered in accordance with this Act.

New districts.

35 (6.) Where by the constitution of a new borough or town district a new combined district is created, the statutory closing-day appointed at the time of such creation for the borough or town district in such combined district having the largest population shall be observed throughout the combined district until altered in accordance with this Act.

40 13. (1.) Except as hereinafter specially provided, all shops, whether in a separate or combined district, shall be closed on one working-day of each week at the hour of ~~one~~ *half past twelve* o'clock in the afternoon for the remainder of the day.

Shops to close on statutory closing-day.  
1908, No. 179, sec. 11.  
1910, No. 61, sec. 15.

(2.) Such day (in this Act 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:

45 Provided that in the event of any day other than Saturday being appointed as the statutory closing-day, then any occupier shall be entitled to close his shop on Saturday in lieu thereof on giving to the Inspector notice in writing of his desire so to do.

50 14. (1.) If at any time, in the case of any separate district which is a borough or town district, or in the case of any combined district, a requisition is presented that the statutory closing-day in that

Poll of electors to determine statutory closing-day.  
1908, No. 179, sec. 17.

district be determined by a poll of the electors in accordance with this section, then, notwithstanding anything to the contrary in this Act, the statutory closing-day in that district shall be determined accordingly in manner hereinafter in this section provided.

Cf. 1908, No. 179,  
sec. 17.

(2.) Every such requisition shall be signed by not less than one-tenth of the total number of electors of the borough or town district in the case of a separate district, or by not less than one-tenth of the total number of the electors of the constituent boroughs and town districts in the case of a combined district. For the purposes of this subsection the electors shall be deemed to be the persons whose names are ~~on the electors roll or the electors rolls~~ *on the main or supplementary rolls to be used at such elections* for the time being in force in the separate district or constituent districts. Every person signing a requisition under this section shall sign thereon his full name, and shall add to his signature his place of abode and calling or description; and the local authority may refuse to take into account the signature of any person who does not comply with the provisions of this subsection.

Ibid.

(3.) Every such requisition shall, in the case of a separate district, be presented to the local authority thereof; and, in the case of a combined district, shall be presented to the local authority of the borough or town district having the largest population (in this Act referred to as the convening local authority).

(4.) Every such requisition shall be so presented not less than one month and not more than three months before the day fixed for a general election of the members of the local authority to which such requisition is presented.

(5.) If and as often as any such requisition is duly presented to the local authority of a borough or town district which is a separate district, a poll of the electors of that borough or town district shall be taken on the day fixed for the next general election of the members of such local authority simultaneously with the poll (if any) taken for such election.

(6.) If and as often as any such requisition is duly presented to the convening local authority of a combined district consisting solely of two or more boroughs, a separate poll of the electors of each such borough shall be taken on the day fixed for the next general election of the local authority of that borough simultaneously with the poll (if any) taken for such election. All the separate polls so taken under the authority of this subsection shall be deemed to constitute a single poll, the result of which shall be determined by a majority of all the votes which have been given thereat.

(7.) If and as often as any such requisition is duly presented to the convening local authority of a combined district constituted otherwise than is mentioned in the *last preceding* subsection, a poll of the electors of all the constituent local authorities of that district shall be taken, in such manner as the convening local authority determines, on the day fixed for the next general election of the members of the convening local authority.

(8.) Subject to the provisions of this section, every poll taken under the authority thereof shall be taken in manner provided by the Local Elections and Polls Act, 1908.

127

(9.) At every such poll each elector may vote for the appointment of any working-day as the statutory closing-day, and the statutory closing-day for the district shall be determined in accordance with the majority of the votes so given :

5

*New.*

Provided that in the Taranaki combined district the poll shall be taken for Thursday or Saturday.

(10.) The result of every poll taken under the authority of this section shall be notified to the Minister under the hand of the Mayor, Chairman, or Clerk of the local authority in the case of a separate district, or of the convening local authority in the case of a combined district; and the Minister shall thereupon appoint the day determined by the result of such poll as the statutory closing-day for that district. Every such appointment shall be gazetted, and a copy of the *Gazette* containing a notice of such appointment shall be conclusive evidence that the same has been duly made according to the tenor of such notice.

(11.) On and after the first day of June following the poll, the day so appointed shall be the statutory closing-day for the district in respect of which the appointment is made, and shall continue to be the statutory closing-day for that district until the first day of June following a subsequent poll taken under this section and determining another day as the statutory closing-day for the district.

(12.) Until and unless the statutory closing-day in any district is determined and appointed in accordance with this section it shall be determined and appointed in manner provided by the *next succeeding* section.

15. (1.) Until and unless the statutory closing-day in any district is determined and appointed in accordance with the *last preceding* section it shall be determined and appointed in the manner hereinafter provided.

Appointment of  
statutory closing-  
day in separate  
districts.

1908, No. 179,  
sec. 12.

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

(a.) 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.

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

(c.) 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*, appoint that day to be the statutory closing-day in the separate district.

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

In combined  
districts.

(a.) A conference of delegates from the local authorities of all the boroughs and town districts comprised in the combined district (in this Act referred to as constituent local authorities) shall be held in the month of January in each year.

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

- (c.) 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*, appoint that day to be the statutory closing-day in the combined district. 5
- (4.) With respect to such conference the following provisions shall apply:—
- (a.) Each of the constituent local authorities (other than a City Council) shall appoint one of its members to be a delegate. 10
- (b.) 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. 15
- (c.) In the month of December of each year 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. 20
- (d.) The meeting of the conference shall be held at the time so fixed, and at the office of the convening local authority.
- (e.) 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. 25
- (f.) At the first meeting of the conference the members shall appoint one of their number to be chairman.
- (g.) The proceedings of the conference shall not be affected by the fact that the full number of delegates has not been appointed. 30
- (h.) 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
- (5.) 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*, appoint as the statutory closing-day in that district such working-day as he thinks fit. 40
16. (1.) The statutory closing-day appointed by the Minister pursuant to the *last preceding* section 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 of the same year, or, where such notice is not published on or before the said date, the day so appointed shall be the statutory closing-day on and from such later date as may be specified in the notice in the *Gazette*, and in each case shall so continue until altered pursuant to the provisions of this Act. 50

Minister may  
in certain cases  
appoint statutory  
closing-day.

Notice of statutory  
closing-day to be  
gazetted.  
*Cf. ibid.*, sec. 16.

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

(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.

17. (1.) The provisions of section *thirteen* hereof (relating to the closing of shops on the statutory closing-day) shall be subject to the exceptions and modifications following:—

Excepted shops.  
Ibid, sec. 18.  
1910, No. 61, sec. 15.

10 (a.) In the case of any shop wherein is exclusively carried on any one or more of the businesses of a fishmonger, a dairy-produce seller, a fruiterer, a confectioner, a florist, a baker, or a bookstall-keeper on a railway-station or wharf, the occupier shall not be required to close his shop on any working-day:

15 Provided that the provisions of this paragraph shall not affect the right of any shop-assistant employed in any such excepted shop to a half-holiday for the remainder of the day 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:

*Struck out.*

25 Provided further that the foregoing provisions of this paragraph shall not be deemed to authorize a bookstall-keeper on a railway-station or wharf to carry on his business on the statutory closing-day, except for the purpose of supplying *bona fide* passengers.

30 (b.) In the case of any shop wherein is carried on exclusively the business of a butcher or a pork-butcher, the Minister may, in the event of Saturday being appointed the statutory closing-day in the district, on the application in writing of the occupier of any such shop, authorize such occupier to close his shop on some working-day other than Saturday in each week, as the Minister thinks fit.

Cf. 1908, No. 179,  
sec. 18 (b);  
1910 No. 61, sec. 15.

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

1908, No. 179, sec.  
18 (c).

40 (i.) In the case of a shop situate at a seaport, solely for the purpose of supplying goods to any ship or vessel arriving at the port on that day;

45 (ii.) 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 solely for the purpose of selling such machinery or fittings during the time of harvest;

50 (iii.) In the case of a shop wherein telephonic, telegraphic, or postal business is carried on on behalf of the Postmaster-General, solely for the purpose of such business; provided that where such shop is the only shop in the locality within a radius of three miles, such shop may be kept open for ordinary business; and

(iv.) In the case of a chemist's shop, solely for the purpose of supplying medicines and surgical appliances which are urgently required: Provided that a chemist may keep his shop open and employ his assistants (but only for the purpose of supplying medicines and surgical appliances) between the hours of seven and nine o'clock in the evening of the statutory closing-day. 5

(2.) For the purposes of this section the definitions contained in section *five* hereof shall extend and apply.

Special holidays.  
Ibid, sec. 18 (a).  
1910, No. 61, sec. 15.  
1908, No. 179,  
sec. 19.

18. The following provisions shall apply with respect to the following special days—that is to say, Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Labour Day, the birthday of the reigning Sovereign, and any day which, pursuant to a Proclamation by the Governor or a declaration by the Minister of Internal Affairs, or on the request of the Mayor or Chairman of a local authority, is observed as a public holiday or half-holiday: — 10 15

(a.) Where any such special day falls on a day other than the statutory closing-day, it shall be deemed to be a sufficient compliance by any occupier with the requirements of this Act relating to the weekly half-holiday if those requirements are duly complied with on the special day in lieu of on the statutory closing-day. 20

(b.) 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. 25

Cf. Ibid, sec. 19 (c).

(c.) Where any such special day falls on a Monday, the occupier of a shop that is usually closed for a half-holiday on Saturday may, if he observes a whole holiday on Monday, keep his shop open on the Saturday next preceding such special day, provided that he has closed his shop at one o'clock in the afternoon of some other working-day in the week. 30

When shop deemed not to be closed.  
Ibid., sec. 20.

19. 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 the occupier or any of his assistants are engaged in canvassing for orders or delivering goods to customers; but where a shop and factory have a common entrance it shall be sufficient for the purposes of this Act if such entrance is closed but not locked. 35 40

In case of shop and factory combined.  
Cf. *ibid*, sec. 21.

20. 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 this Act, be deemed to be employed exclusively in that part of the establishment in which he is chiefly employed, as certified by the Inspector. 45

Wages to be paid for half-holiday.  
Ibid, sec. 22.

21. The ordinary wages or salary of every shop-assistant shall be paid for the weekly half-holiday and for any public holiday or half-holiday observed under section *eighteen* hereof, at the first regular pay-day after the holiday or half-holiday. 50

22. Where a person who carries on the business of a hair-dresser lets any chair or part of his shop to any other person, such last-mentioned person shall, for all the purposes of this Act, be deemed to be a shop-assistant, and such first-mentioned person  
5 an employer.

Hairdresser who lets his chairs to be deemed an employer. Ibid, sec. 24.

*Closing in certain Districts.*

*Struck out.*

23. (1.) In the combined districts of Auckland, Wellington, Christchurch, and Dunedin all shops (other than those which, pursuant to section *seventeen* hereof are exempted from closing on the statutory half-holiday) shall be closed from the hour of eight o'clock in the evening for the remainder of the day on four working-days of the week other than the day of the statutory half-holiday, and not later than ten o'clock in the evening on one other working-day of the week. Such last-mentioned working-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 in cities.

(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 requisition under the *next succeeding* section.

*Closing by Requisition.*

24. (1.) On the requisition in writing of a majority of the occupiers of all the shops in the district of any local authority, desiring that all the shops therein shall be closed in the evening of any working-day or days at an hour or hours 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 district 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  
30 by the Minister, all shops in the district shall be closed accordingly:

Fixing closing-hours of shops. Cf. Ibid, sec. 25; 1910, No. 61, sec. 15.

Provided that no requisition shall be acted upon by the Minister unless the *Inspector* has certified that the signatures to the requisition represent a majority of the occupiers of all the shops within the district.

35 (2.) For the purposes of the *last preceding* subsection the interpretation of "occupier" in section *two* hereof is so far modified as to include only British subjects, whether by naturalization or otherwise.

40 (3.) A requisition under this section may be limited to any particular trade within the district, and in every case the provisions of subsection *one* hereof shall, *mutatis mutandis*, apply to such limited requisition; and such requisition shall, with respect to the trade mentioned therein, supersede any requisition applying to all shops in the district.

45 (4.) No notice published by the Minister in pursuance of this section shall be cancelled or varied until the expiration of six months from the date of its publication in the *Gazette*.

50 (5.) Every notice inserted by the Minister in the *Gazette* pursuant to this section shall be conclusive evidence of the matters stated therein.



(6.) For the purposes of this section each riding of a county shall be deemed to be a district within the jurisdiction of the County Council.

(7.) It shall not be lawful for the occupier of any shop (other than an hotel or restaurant) in a district to which any requisition relates to sell or deliver goods of any description commonly sold in shops to which the requisition relates after the hour at which those shops are required to be closed pursuant to such requisition. 5

(8.) It shall not be lawful for the occupier of an hotel or restaurant in a district to which any requisition relates to sell or deliver to any person, other than a person for the time being residing in the hotel or restaurant, goods of any description commonly sold in shops to which the requisition relates after the hour at which those shops are required to be closed pursuant to such requisition. 10

(9.) Nothing in this section shall be deemed to authorize the employment of assistants for a greater number of hours than is prescribed by this Act, or after such time as is so prescribed, or to extend the hours of closing in any particular case beyond the hours specifically prescribed by this Act. 15

*As to Hawkers.*

20

Hawkers deemed to be occupiers. 1908, No. 179, sec. 26.

25. 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:—

(a.) 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. 25

(b.) 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. 30

*As to Hotels and Restaurants.*

Certain provisions of Act not to apply to hotels and restaurants.

Cf. 1910, No. 61, secs. 4, 5 (5). 1910, No. 61, sec. 3.

26. (1.) Except as otherwise specially provided, sections *five to eight*, section *ten*, sections *twelve to nineteen*, and sections ~~twenty-three~~, *twenty-four*, *forty-three*, and *forty-four* hereof shall not apply to hotels and restaurants or to the assistants therein. 35

(2.) Engineers, electricians, and clerks engaged in hotels shall not be deemed to be assistants within the meaning of this Act.

Hours of employment. Cf. *ibid.*, secs. 5 and 6.

27. (1.) Except as hereinafter provided, an assistant shall not be employed in or about an hotel or restaurant or its business—

(a.) In the case of an hotel, for more than ~~sixty-two~~ hours (excluding meal-times) in any one week in the case of a male whose age exceeds sixteen years, nor more than ~~fifty-eight~~ *six* hours (excluding meal-times) in any one week in any other case; nor

(b.) In the case of a restaurant, for more than ~~sixty-two~~ hours (excluding meal-times) in any one week in the case of a male whose age exceeds sixteen years, nor more than ~~fifty-two~~ hours (excluding meal-times) in any one week in any other case; nor

(c.) For more than ~~eleven~~ *ten* hours (excluding meal-times) in any one day; nor 50

*New.*

(cc.) Without a continuous interval between periods of employment of at least ten hours in every day; nor

(d.) For more than five hours continuously without an interval of at least half an hour for a meal; nor

*New.*

(e.) At any time after two o'clock in the afternoon of such working-day in each week as the occupier in the case of each assistant thinks fit.

(2.) Such working-hours may be extended for not more than three hours in any one day, nor more than ninety hours in any one year. Written notice of the extended time worked is to be given to the Inspector within twenty-four hours thereof.

(3.) Every assistant employed during such extended hours shall, at the first regular pay-day thereafter, be paid for such employment half as much again as the ordinary rate of wages, or the sum of ~~nine pence~~ one shilling per hour, whichever is the greater.

*Struck out.*

(4.) Every assistant who is employed exclusively in or about a bar or private bar of an hotel, or who is employed in a restaurant which does not carry on business on a Sunday, or in any hotel or restaurant in which not more than three assistants are employed, shall be entitled to a half-holiday from two o'clock in the afternoon of such working-day in each week as the occupier, in the case of each such assistant, thinks fit.

(5.) Every assistant employed in or about an hotel or restaurant other than assistants to whom the *last preceding* subsection applies shall be entitled to a whole holiday of twenty-four hours commencing at his usual hour for commencing work on such day in each week as the occupier, in the case of each such assistant, thinks fit.

*New.*

(3A.) For the purposes of this Act, if an assistant is employed partly in a restaurant and partly in a shop other than a restaurant (whether in the same premises or not), he shall be deemed to be employed exclusively in the shop in which he is chiefly employed, as certified by the Inspector:

Provided that an assistant who, pursuant to this subsection, is deemed to be exclusively employed in a restaurant shall not be employed in connection with the business of a shop other than the restaurant after the hours fixed for the employment of assistants in such shops.

(3B.) Subject to the provisions of section twenty-eight hereof, every assistant who is employed as a night-porter or night-watchman in any hotel or restaurant shall, in lieu of a weekly half-holiday, have in each period of fourteen days a whole holiday of twenty-four hours, commencing at his usual hour for commencing work, on such day as the occupier in the case of each such assistant thinks fit.

(6.) Neither the wife or the husband, as the case may be, nor the children of the occupier shall be deemed to be assistants within the meaning of this section:

*New.*

Whole holiday to assistants in hotels or restaurants in certain cases.

Provided that notwithstanding anything in section twenty-seven hereof, provision may be made in any award or industrial agreement relating to assistants employed in hotels or restaurants for a whole holiday of twenty-four hours in each week in lieu of the half-holiday hereinbefore provided for : 5

Provided further that in the case of any such award such provision shall, on application in that behalf, be made unless the Court, in the case of any specified hotel or restaurant, or in the case of all hotels or restaurants in any specified locality, is satisfied that such provision would not be equitable or reasonably practicable, in which case the said provision may be modified in respect of such hotels or restaurants. 10

Accumulated holidays.  
Cf. *ibid.*, sec. 7.

28. (1.) In lieu of allowing a half-holiday or a whole holiday as aforesaid, it shall be lawful for the occupier of an hotel or restaurant to allow to any assistant, by mutual agreement, leave of absence on full pay at the ordinary rate for a period of seven days (including Sunday) in every three months ~~in the case of assistants to whom~~ 15

*Struck out.*

subsection four of the last preceding section applies, and for a period of fourteen days (including Sundays) in every three months in the case of assistants to whom subsection five of that section applies. 20

(2.) Notice in writing of any such arrangement, stating the name of the assistant and the date from which the arrangement is intended to have effect, shall be given by the occupier to an Inspector at least twenty-four hours before the arrangement comes into force. 25

(3.) Any such arrangement may be terminated by the occupier at any time, or by the assistant on giving to the occupier seven days' notice of his desire to terminate the same.

(4.) Notice in writing of such termination shall, within two days thereafter, be given by the occupier to an Inspector. 30

(5.) Where any such arrangement is terminated as aforesaid, or where the employment of any such assistant is terminated from any cause, the occupier shall, on such termination, allow to the assistant leave of absence on full pay at the ordinary rate for such period as is equivalent to the half-holidays or whole holidays, as the case may be (if any), to which but for this section he would have been entitled since the expiry of his last preceding leave of absence, or, if there has been no such leave of absence, then since the date on which the arrangement came into force. 35 40

Alternative provision as to half-holidays in hotels.  
Cf. *ibid.*, sec. 8.

29. In lieu of allowing a half or whole holiday as provided for in this Act, the occupier of an hotel or restaurant may, with the previous written consent of the Inspector, require all or any of the assistants to work on the half or whole holiday on not more than one occasion within any period of two months : 45

Provided—

(a.) That every assistant ~~to whom subsection four of section twenty-seven hereof applies~~ who works as required on the half-holiday shall be given a whole day's holiday during ~~on some working-day~~ in the week immediately succeeding the week in which the half-holiday was not allowed. 50

(b.) That every assistant ~~to whom subsection five of the same section applies~~ who works as required on the whole holiday in any week shall be given either a whole day's holiday on some other day in that week or an equivalent extra holiday in the next succeeding week.

30. (1.) In every hotel and restaurant the occupier shall at all times keep in an approved holiday-book a record of the working-day in each week fixed for the half or whole holiday of each assistant. The record shall at all times be open to inspection by any assistant employed by the occupier, or by an Inspector, and shall be signed by each assistant before entering upon his half or whole holiday.

(2.) Every assistant who fails to sign the record as provided by the *last preceding* subsection or who signs any incorrect record is liable to a fine of one pound.

15 *Struck out.*

31. Notwithstanding anything in this Act, any award of the Court of Arbitration relating to hotels or restaurants in force on the third day of December, nineteen hundred and *ten* (being the date of the commencement of the Shops and Offices Amendment Act, 1910), and in force on the commencement of this Act shall continue in force for the period for which it was made as if this Act had not been passed.

Notice in respect of holidays and working-hours. Cf. *ibid.*, sec. 9.

Provisions of awards, &c., to prevail while in force. *Ibid.*, sec. 11.

32. (1.) It shall not be lawful for the occupier of an hotel or restaurant in any district to sell or deliver to any person, other than a person for the time being residing in that hotel or restaurant, any goods of a description commonly sold in any shop within the district (other than a shop which, pursuant to section *seventeen* hereof, is exempted from closing on the statutory half-holiday) on the afternoon of the day appointed for the statutory half-holiday in the district, or while any such shop is closed pursuant to the provisions of section *twenty-three* hereof.

(2.) If in any such district some of the shops to which this section refers are, pursuant to section *twenty-three* hereof, kept open after eight o'clock on Friday, and other shops in which goods of the same description are commonly sold are kept open after the same hour on Saturday in each week, then, notwithstanding anything in the *last preceding* subsection, the occupier of an hotel or restaurant shall not be required to refrain from selling any such goods after eight o'clock on more than one of the said days, if he notifies the Inspector on which of the said days in each week he intends so to refrain from selling such goods.

Occupiers of hotels or restaurants not to sell certain goods on half-holidays or after hours. Cf. *ibid.*, sec. 15; Schedule, sec. 25 (11).

#### OFFICES.

##### *Closing-hour for Offices.*

33. (1.) Every office shall be closed not later than one o'clock in the afternoon on Saturday, and five o'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, mining, newspaper, telegraph agencies', cable companies', or telegraph companies' offices, or offices of freezing companies, or

Office hours. Cf. 1908, No. 179, Sec. 27.

offices of forwarding agencies, or offices of solicitors, auctioneers, banks, Harbour Boards, insurance companies, wholesale warehousemen, wool-brokers, wool-buyers, or miners' industrial unions.

(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. 5

Provision for closing on statutory closing-day.

Ibid., sec. 28.  
1910, No. 61, sec. 15.

34. In the event of any day other than Saturday being appointed or observed 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 if he lodges with the Inspector a notice in writing of his desire so to do. 10

Wages to be paid for half-holiday.  
1908, No. 179, sec. 29.

35. The ordinary wages or salary of every office-assistant shall be paid for the half-holiday hereinbefore provided, and for any holiday or half-holiday mentioned in section *eighteen* hereof, at the first regular pay-day after the half-holiday or holiday. 15

#### *Employment of Office-assistants.*

Employment after office hours.  
Ibid., sec. 30.

36. (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. 20

(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. 25

Exemptions.

(4.) It shall not be deemed to be a breach of this 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:— 30

(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: 35

(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: 40  
Provided that he shall in no case be employed under this paragraph 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: 45

(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 in his office-work due to special circumstances: 45

Provided that he shall in no case be employed under this paragraph for more than three hours in any one day, nor for more than six days in any one month: 50

(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.

(5.) The occupier of an office shall at all times keep a record-  
5 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* subsection, the name of the assistant, and the respective dates, periods, and purposes of such employment.

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

(7.) Payment shall be made at the first regular pay-day thereafter for all extended hours worked under the provisions of this section at the rate of not less than one and a half times the ordinary  
15 rate of payment :

Provided that in no case shall such rate of payment be less than ninepence an hour :

20 Provided also that any office-assistant whose wages are or exceed two hundred pounds per annum shall not be entitled to payment for such extended hours.

*New.*

25 (8.) The provisions of the *last preceding* subsection (as to payment for extended hours) shall apply to office-assistants in any office specified in the proviso to subsection *one* of section *thirty-three* hereof who are employed in or about the office or its business after half-past one o'clock in the afternoon on Saturday in any week or after half-past five o'clock in the afternoon on any other working-day.

SANITATION, ETC., OF SHOPS AND OFFICES.

30 37. For the better sanitation of shops and offices, and for the convenience of the assistants employed therein, the following rules shall at all times be observed :—

Rules as to sanitation, &c. Ibid., sec. 31.

(a.) 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.

35 (b.) Sufficient privy accommodation shall be provided for all 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 ensure privacy.

40 (c.) The shop or office shall not be overcrowded so as to injuriously affect the health of the persons employed therein.

(d.) 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  
45 the work carried on therein.

(e.) Without limiting the operation of the *last preceding* paragraph, 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,  
50 fumes, dust, and other impurities.

- (f.) 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. 5
- (g.) 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. 10
- (h.) A sufficient supply of fresh drinking-water shall be provided for the free use of the persons employed in the shop or office.
- (i.) Suitable heating appliances, to the satisfaction of the Inspector, shall be provided.

*New.* 15

- (j.) In cases where sleeping-accommodation is supplied by the employer such accommodation shall have sufficient air-space, well lighted, and a sufficient distance away from any privy or other sanitary arrangement to be free from smell or leakage which may arise therefrom. 20

Persons suffering from certain diseases not to be employed in food and clothing shops  
Ibid., sec. 32.

38. (1.) 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, or of any textile fabric, 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, the Inspector shall forthwith report the matter to the District Health Officer appointed under the Public Health Act, 1908. 25

(2.) 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 some registered medical practitioner to be named in the notice. 30

(3.) 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 practitioner that his state of health is not likely to convey germs of disease or other contamination to any of the said articles. 35

(4.) If that person does any work in or about the shop after service of the said notice upon him without first obtaining the said certificate, he shall be liable to a fine not exceeding *two* pounds for every day on which he works in breach of this section. 40

(5.) 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.

(6.) If the occupier of the shop, after service upon him of the said notice, employs that person, he shall be liable to the same fine as is hereinbefore provided in the case of the person so employed. 45

Proceedings under other Acts.  
Ibid., sec. 33.

39. 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 provisions shall apply :— 50

(a.) 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 the nuisance or remedy the defect.

(b.) 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 District Health Officer, or any 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.

(c.) 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.

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

Inspector's  
requisitions.  
Ibid., sec. 34.

(a.) The requisition shall be in writing under the hand of the Inspector, and shall be addressed to and served on any one of the occupiers as defined in section *two* hereof, under his usual business name or style.

(b.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the shop or office.

(c.) The requisition, when served as aforesaid, shall bind every person who by section *two* hereof is included in the definition of " occupier."

(d.) 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 or office a notice of appeal in the prescribed form, setting forth with reasonable particularity the grounds of the appeal.

(e.) The appeal shall be void unless the notice of appeal is duly filed as aforesaid within seven days after service of the requisition.

(f.) 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.

(g.) 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.

#### OFFENCES AND PROCEDURE.

41. In every case where by this Act—

(a.) Any rule is required to be observed in a shop or office ; or

(b.) Any requisition of an Inspector is served on the occupier of a shop or office ; or

Occupier to com  
with rules and  
requisitions.  
Ibid., sec. 35.



(c.) 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,—

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. 5

Forgery and false entries.  
Ibid., sec. 36.

42. Every person is liable to a fine not exceeding *twenty* pounds, or to *three* months' imprisonment with hard labour, who—

(a.) Forges, counterfeits, or fraudulently alters any certificate, consent, notice, or other document which an Inspector is authorized to give or issue under this Act; or 10

(b.) Uses any such document, knowing the same to be forged, counterfeited, or fraudulently altered; or

(c.) Personates any one named in any such document; or 15

(d.) Wilfully makes any false entry in any register, record, notice, or book required or authorized under this Act; or

(e.) 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. 20

*Struck out.*

Employment of assistant after prescribed time.  
Cf. *ibid.*, secs. 3 (1), (3), 37; 1910, No. 61, sec. 15.

43. If any shop-assistant is employed at any work in any shop, or in connection with the business of any such shop, later than fifteen minutes after the prescribed time, the employer commits an offence in respect of each shop-assistant so employed. 25

Evidence of employment.  
1908, No. 179, sec. 38.

44. 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 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. 30

Where no specific fine imposed.  
Ibid., sec. 39.

45. Every person who commits a breach of any of the provisions of this Act for which no specific fine is provided elsewhere in this Act is liable to a fine not exceeding *ten* pounds for each such breach, and if the breach is a continuous one, then to a further fine not exceeding *five* pounds for each day on which the breach continues. 35

Proceedings to be before Magistrate alone.

Ibid., sec. 40.

Liability of other person in fault.

Ibid., sec. 41.

46. 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 Magistrate alone. 40

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

(a.) 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. 45

(b.) If the charges are heard together, and the offence is proved, but the occupier satisfies the Magistrate that it was in 50

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.

(c.) 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* paragraph shall, *mutatis mutandis*, apply, and if such other person is convicted (but not otherwise) the occupier shall cease to be liable.

48. 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, the following provisions shall apply:—

Magistrate may order work to be done.  
Ibid., sec. 42.

(a.) The Magistrate, in addition to or in lieu of imposing a fine, 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.

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

(c.) If the order is made in lieu of imposing a fine, 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 fine in respect of the offence.

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

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

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

Proceedings by Inspector.  
Cf. *ibid.*, sec. 43.

(a.) The proceedings shall be commenced within three months after the offence was committed:

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.

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

(c.) 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.

- (d.) It shall be sufficient to allege that a shop or office is a shop or office.
- (e.) 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. 5
- (f.) 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. 10
- (g.) 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. 15
- (h.) If either party is dissatisfied with the judgment of the Court on any summary proceedings under this Act, he may appeal to the Supreme Court in the manner provided by the Justices of the Peace Act, 1908. 15

Liability to fine not to relieve from payment of wages. Ibid., sec. 44.

50. The fact that an occupier is liable to a fine under this Act for non-payment of wages or salary in respect of a holiday or half-holiday shall not relieve him from his civil liability to make the payment. 20

#### MISCELLANEOUS.

##### *Struck out.*

Requisitions as to closing-hours of certain shops.

51. On the application of the occupier of any shop which pursuant to this section or to section twenty-three hereof is required to be closed at a specified time, the Minister may, by notice in writing, require the occupier of any other shop in the same trade situated within one mile by the nearest convenient route of the first-mentioned shop to close his shop at the hour at which the applicant is required to close his shop, and such requisition shall be complied with accordingly. 25 30

##### *New.*

Arbitration Court may, on application of party, modify award or industrial agreement so as to conform to this Act.

51A. (1.) Any party to an award or industrial agreement in force under the Industrial Conciliation and Arbitration Act, 1908, on the commencement of this Act, and containing any provisions inconsistent with this Act, may at any time after the passing of this Act apply to the Court of Arbitration for an order adjusting the terms of the award or industrial agreement so as to comply with the provisions of this Act, and thereupon the Court may make such order accordingly, and may in such order further amend the award or agreement in such manner as under the circumstances it thinks reasonable and equitable. 35 40

(2.) Unless and until an order of the Court is made under this section, the provisions of this Act shall be deemed to have superseded the inconsistent provisions of the award or industrial agreement, and the said award or agreement shall be deemed to be modified accordingly. 45

Inspector to see Act carried out. Ibid., sec. 45.

52. It shall be the duty of every Inspector to see that the provisions of this Act are properly carried out, and to prosecute persons guilty of any breach thereof. 50

53. (1.) For the purposes of this Act every Inspector shall have the same right of entry into and inspection of a shop or office subject to the provisions of this Act as he would have in respect of a factory:

Inspectors' powers  
Ibid., sec. 46.

5 Provided that the powers of inspection herein conferred upon an Inspector shall not confer upon him the power to inspect books other than those in which the time worked and wages paid are shown.

10 (2.) Every person who refuses to allow such entry or inspection is liable to a fine not exceeding *five* pounds.

15 54. Nothing in this Act 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.

Commercial  
travellers excepted  
from Act.  
Ibid., sec. 49.

20 55. Nothing in this Act shall render the occupier of a shop liable to any penalty in respect to the employment of any shop-assistant in feeding and tending horses used in the business of the occupier, in excess of the hours of employment allowed by this Act:

Exception as to  
tending horses.  
Cf. Ibid., sec. 50 ;  
1910, No 61, sec. 15.

Provided that such employment in excess shall not exceed one hour per day, and overtime shall be paid for such excess at the rate of time and a quarter, with a minimum of ninepence per hour.

*Struck out.*

25 56. Nothing in this Act shall be deemed to prohibit the sale at any time of newspapers on any premises where the same are printed or published, by the printer or publisher, or by any assistant of either or both of them:

Newspaper offices  
excepted for certain  
purposes.

30 Provided that this section shall not affect the right of any such assistant to a half-holiday in the afternoon of some working-day in each week, nor be deemed to authorize the employment of such assistant for a greater number of hours than is prescribed in section *eight* hereof.

35 57. The Governor may from time to time, by Order in Council gazetted, make regulations for any purposes contemplated or required by this Act.

Regulations.  
1908, No. 179, sec.  
47.

58. All fines recovered under this Act shall be paid into the Public Account and form part of the Consolidated Fund.

Fines payable to  
Public Account.  
Ibid., sec. 48.

*Repeals.*

40 59. (1.) The enactments mentioned in the *Second* Schedule hereto are hereby repealed.

Repeals.  
Ibid., sec. 1.

45 (2.) All districts, appointments, Orders in Council, regulations, polls, certificates, notices, requisitions, documents, books, records, statutory closing-days, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary,  
50 be deemed to have so originated.

Savings.

(3.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Schedules.

## SCHEDULES.

1908, No. 179,  
Second Schedule.  
1910, No. 61, sec. 15.

FIRST SCHEDULE.  
HOURS OF EMPLOYMENT IN CERTAIN TRADES.

	Hour on Statutory Half- holiday.	Hour on One Working-day in each Week.	Hour on all other Working-days.
Bakers ... ..	10.30 p.m.	11 p.m.	10.30 p.m.
Butchers ... ..	1 p.m.	10 p.m.	6 p.m.
Chemists ... ..	1 p.m.	9 p.m.	8 p.m.
Confectioners ... ..	10.30 p.m.	11 p.m.	10.30 p.m.
Dairy-produce sellers ... ..	6 p.m.	10 p.m.	6 p.m.
Fishmongers ... ..	10.30 p.m.	11 p.m.	10.30 p.m.
Florists ... ..	8 p.m.	10 p.m.	8 p.m.
Fruiterers ... ..	10.30 p.m.	11 p.m.	10.30 p.m.
Hairdressers ... ..	1 p.m.	10.30 p.m.	8 p.m.
Newsagents ... ..	1 p.m.	10 p.m.	8 p.m.
Pork-butchers .. ..	1 p.m.	11 p.m.	10.30 p.m.
Tobacconists ... ..	1 p.m.	10.30 p.m.	8 p.m.

1908, No. 179.  
First Schedule.

## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

1908, No. 179.—The Shops and Offices Act, 1908.  
1910, No. 61.—The Shops and Offices Amendment Act, 1910.

By Authority : JOHN MACKAY, Government Printer, Wellington.—1913.