

# SHOPS AND OFFICES BILL

## EXPLANATORY NOTE

THIS Bill is a consolidation of the Shops and Offices Act 1921–22 and its amendments.

As the existing legislation is obscure and complicated, the Bill has been completely redrafted, and rearranged in a simpler form, so as to omit various provisions which are spent and others which have become unnecessary in view of newer alternative provisions or in view of the provisions of awards made by the Court of Arbitration.

The Bill contains provisions as to the times when shops are required to be closed, and as to the cases in which Sunday trading is permitted in shops. It also deals with the hours of employment of shop assistants, and the safety, health, and welfare of assistants employed in shops, offices, warehouses, and stores.

There are no provisions as to the hours of employment in offices or as to the times when they may be open.

The sources of the clauses of the Bill are shown in the marginal notes, and new or altered provisions are marked by a black line in the margin.

The comparative table at the end of this note shows where each repealed provision appears in the Bill or, as the case may be, the reason for its omission. Where no special reason is indicated for the omission of any provision, it is considered to be unnecessary.

The following notes indicate the important changes.

*Clause 2: Interpretation.*—Some of the definitions in the existing Act and its amendments have been omitted, as they are no longer necessary. New and altered definitions are indicated by a black line in the margin. By virtue of the new definition of the term “business”, the term “office” now includes every office in which any person is employed to do any clerical work in connection with any profession, trade, manufacture, or undertaking or in connection with the activities of any local authority, public body, society, club, or other body of persons.

## PART I

### SHOPS

#### *Closing of Shops*

*Clause 3: Fixing of opening and closing hours of shops by Court of Arbitration.*—This clause is extended so as to enable the Court, in any award, to fix the opening and closing hours for Sundays as well as for weekdays, and also (with the prior consent of the Minister of Labour except in the case of chemists’ shops) to fix the times during which shops may be open on Sundays. The Court is to continue to have power to provide for the closing of shops for the whole of one weekday in each week and on prescribed holidays. Awards may be amended to provide for any of these matters, and any organizations are entitled to be heard by the Court when dealing with these matters if in the opinion of the Judge they may be affected by the result of the proceedings. The provision that decisions of the Court under this clause require the consent of the Judge is new.

*Clause 4: Sunday trading.*—Shops are required to be closed on Sundays except as provided in an award of the Court of Arbitration or in the Bill. The exceptions provided in the Bill are—

(a) *Clause 4 (2):* Confectioners' shops, dairies, and shops for the sale of fruit, vegetables, or flowers by the growers on their own premises, which may be open on Sundays except as provided in an award of the Court of Arbitration:

(b) *Clauses 6 to 9:* Exempted goods, and certain other specified goods and services:

(c) *Clause 10:* Exemptions granted by Magistrates' Courts.

*Subclause (3) of clause 4* amends section 18 of the Police Offences Act 1927 so that it will no longer apply to shops to which the Bill applies.

*Clause 5: Closing in one shop carrying on two or more classes of business.*—This clause is altered so as to allow a shutter to be used to conceal and prevent access to any class of goods when they are not allowed to be sold. The existing law requires a shop to have separate entrances in such cases.

*Clause 6: Exempted goods.*—This clause allows exempted goods to be sold at any time. Exempted goods are defined as smoking requisites and such other goods as may be exempted from time to time by Order in Council. The Minister of Labour is empowered to appoint an advisory committee, and while any such committee is in existence no Order in Council granting or amending or revoking an exemption is to be made except after consideration of the report of the committee thereon.

*Clauses 7 to 9:* These clauses repeat without substantial alteration the existing provisions as to the sale of medicines, the sale of motor spirits, and the carrying on of post office business when shops are otherwise required to be closed.

*Clause 10: Exemptions from closing provisions may be granted by Magistrates' Courts.*—*Subclauses (2), (4), and (5)* have been redrafted and *subclauses (3) (b) and (8)* are new. A Magistrate's Court is empowered to exempt a shop from any of the closing provisions of the Bill (whether on weekdays or Sundays) if the Court is satisfied that it is in the public interest to do so. In addition to the occupiers of other shops, and union representatives affected, any organizations are entitled to be heard if in the opinion of the Court they may be affected by the result of the proceedings. The Court is to have regard to the interest of the occupier of any other shop that may be affected, but is also to have regard to the desirability of providing service to the public at all reasonable times, particularly in the case of shops in holiday resorts. Shop assistants may be employed at any time while a shop is open pursuant to an exemption; and the award rate of wages for such employment is not to exceed double time on closing days and Sundays or treble time on holidays, except in the case of extended hours in excess of forty hours in any week.

The foregoing provisions of the Bill are intended to provide a complete code of law for the closing of shops. The existing provisions for the fixing of the weekly half-holiday by polls of electors, or by local authorities, or by the Minister of Labour have been omitted, as have also the existing provisions for the fixing of daily trading hours by the Minister of Labour on a requisition or petition. All these matters are to be left to be fixed by awards made by the Court of Arbitration.

#### *Hours of Employment in Shops*

*Clause 11: Hours of commencement and termination of employment of boys and females.*—The provision prohibiting the employment of shop assistants under sixteen years of age before 7 a.m. is extended to prohibit their employment before that hour

in delivering milk or newspapers, except that newspapers may be delivered from 6 a.m. by persons aged fourteen years and upwards. Male assistants under eighteen years of age and female assistants are permitted to be employed until 10.30 p.m. in all cases. At present the hour is 9.30 p.m. except on Christmas Eve or New Year's Eve or in a restaurant combined with a baker's or confectioner's shop.

*Clause 12: Limiting hours of employment of shop assistants.*—In paragraph (c) the minimum meal interval is reduced from one hour to three-quarters of an hour. Paragraph (d) provides for two free days for each assistant in each week, thus providing for a normal working week of five days.

*Clause 13: Extended hours.*—The extended hours of any assistant are not to be worked on more than one of the assistant's two free days in any week, and, in the case of male assistants under sixteen years of age and female assistants, are not to exceed three hours on any day other than a free day or nine hours in any week. The maximum working period without an interval for rest is extended from four hours to four and a quarter hours, and the interval for rest is extended from half an hour to three-quarters of an hour.

#### *Hotels and Restaurants*

*Clause 18: In paragraph (b) of subclause (2) the provision requiring an industrial agreement before female assistants over twenty-one years of age may be employed in restaurants for an hour immediately after 10.30 p.m. has been omitted.*

### PART II

#### SAFETY, HEALTH, AND WELFARE

##### *Safety, Health, and Welfare Rules*

The rules contained in section 50 of the Shops and Offices Act 1921-22 (as to safety, health, and welfare in shops, offices, warehouses, and stores) have been set out in the First Schedule to the Bill, which also contains various new rules based on the provisions of the Factories Act 1946.

##### *Miscellaneous*

*Clause 23: Liability of owner as to cost of alterations.*—This is a new provision based on section 81 of the Factories Act 1946. It enables the occupier of a shop, office, warehouse, or store to recover from the owner of the building a reasonable proportion of the cost of any alterations required to be made to the building in order to comply with a requisition served on the occupier by an Inspector. The owner is given a right to appeal to a Magistrate's Court against the requisition in the same way as the occupier.

*Clause 25: Proceedings under other Acts.*—This clause repeats section 52 (a) of the Shops and Offices Act 1921-22. It requires an Inspector of Factories to give notice of a nuisance or defect in a shop, office, warehouse, or store to a Medical Officer of Health or to a local authority where the matter can be dealt with by those persons more effectually than by the Inspector. Paragraphs (b) and (c) of section 52, relating to the powers of Medical Officers of Health and officers of local authorities, are omitted from the Bill as unnecessary in view of the provisions of the Health Act 1920 and the various local government Acts.

### PART III

#### GENERAL PROVISIONS

##### *Wages and Time Book*

*Clause 26: Wages and time book.*—This clause has been redrafted on the lines of section 15 of the Factories Act 1946.

*Offences and Procedure*

*Clause 29:* Offences by occupier.—This clause has been redrafted on the lines of section 85 of the Factories Act 1946.

*Clause 32:*—Obstruction of Inspector.—This is a new clause based on section 7 of the Factories Act 1946.

*Clause 33:* General penalty for offences.—The maximum fine is increased from £10 to £25.

*Clause 37:* Evidence of employment.—*Subclause (1)* is limited to shops, as the Bill contains no provisions restricting the employment of assistants in offices. *Subclause (2)* is extended to apply to warehouses and stores as well as shops and offices.

*Miscellaneous*

*Clause 40:* Matters may be completed by different Inspector.—This is a new clause based on section 96 of the Factories Act 1946.

*Clause 41:* Information obtained not to be divulged.—This is a new clause based on section 5 (3) of the Factories Act 1946.

## TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS REPEALED

THE SHOPS AND OFFICES ACT 1921-22, No. 46 (REPRINTED 1943, P. 346)

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	Short Title	50 ..	19, 20
2 ..	2 (1)	51 ..	..
3 (1), (2)	..	52 (a) ..	25
3 (3) ..	11 (2)	52 (b), (c) ..	..
4 (1) ..	..	53 (a), (b), (c) ..	21
4 (2) ..	11 (1)	53 (d)-(g) ..	22
5 ..	..	54 ..	27
6, 7, 8	Repealed	55 ..	29
9 ..	15	56 ..	31
10 ..	First Schedule, r. 17	57 ..	30
11 ..	..	58 ..	37 (1)
12 (1) ..	26 (1)	59 ..	33
12 (2) ..	..	60 ..	34, 35 (1)
12 (3) ..	26 (2)	61 ..	24
12 (4) ..	..	62 (a), (b), (c) ..	..
12 (5) ..	26 (3)	62 (d)-(k) ..	35 (2)-(7)
13-21 ..	..	63 ..	36
22 (1) ..	12 (5)	64 ..	38
22 (2) ..	..	65 ..	37 (2)
23-27 ..	..	66 (1) ..	..
28 (1) ..	2 (5)	66 (2)-(5) ..	39 (1)-(4)
28 (2) ..	2 (6)	66 (6) ..	31
29 ..	2 (4)	67 ..	42
30 ..	5 (1)	68 ..	..
31-33 ..	..	69 (1) ..	3 (1)
34 ..	39 (5)	69 (2), (3) ..	..
35 (1)-(3)	..	69 (4) ..	3 (6)
35 (4) ..	7	70 ..	..
36 ..	2 (2)	71 ..	28
37 ..	17	72 ..	8
38 ..	Repealed	73 ..	44
39 ..	..	First Schedule ..	..
40 ..	18 (1)	Second Schedule ..	..
41-49 ..	..	Third Schedule ..	Second Schedule

## THE SHOPS AND OFFICES AMENDMENT ACT 1927, No. 53 (REPRINTED 1943 P. 387)

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title, etc.	12 ..	.. 5
2 ..	.. ..	13-16 ..	.. ..
3 ..	.. 11 (2)	17 ..	.. Repealed
4 ..	.. 11 (1)	18 ..	.. ..
5 ..	.. ..	19 ..	.. 10
6 ..	.. First Schedule, rr. 19, 20	20-25 ..	.. ..
7 ..	.. Spent	26 ..	.. 18 (1)
8 (1) ..	.. 9	27 ..	.. Spent
8 (2) ..	.. ..	28 ..	.. 8 (2)
9-11 ..	.. ..	29 ..	.. 2 (3)
		30 ..	.. 18 (2) (a)

## THE SHOPS AND OFFICES AMENDMENT ACT 1936, No. 11 (REPRINTED 1943, P. 394)

Section of Act	Clause of Bill	Section of Act	Clause of Bill
1 ..	.. Short Title, etc.	11 ..	.. 17
2 ..	.. 2 (1)	12 ..	.. 2 (1)
3 ..	.. 12 (1), (2)	13 ..	.. ..
4, 5, 6 ..	.. ..	14 ..	.. 18 (1)
7 (1), (2), (3) ..	.. 13	15-19 ..	.. ..
7 (4) ..	.. ..	20 ..	.. 26
7 (5) ..	.. Repeal	21 ..	.. ..
8 ..	.. ..	22 ..	.. 14
9 ..	.. 16	23, 24 ..	.. ..
10 ..	.. ..		

## THE STATUTES AMENDMENT ACT 1937, No. 38 (REPRINTED 1943, P. 401)

Section of Act	Clause of Bill
29 (1) ..	.. ..
29 (2) ..	.. 26

## THE SHOPS AND OFFICES AMENDMENT ACT 1945, No. 38

Section of Act	Clause of Bill
1 ..	.. Short Title
2 (1) ..	.. 12 (1) (a)
2 (2), (3), (4) ..	.. ..
2 (5) ..	.. 12 (3)
2 (6) ..	.. 12 (4)
2 (7) ..	.. Spent
2 (8) ..	.. ..
2 (9) ..	.. 17
3 (1) ..	.. 3 (1)
3 (2) ..	.. 3 (3) (b)
3 (3) ..	.. 10 (1)
3 (4) ..	.. ..
3 (5) ..	.. Repeal
4 ..	.. ..

## THE SHOPS AND OFFICES AMENDMENT ACT 1946, No. 24

Section of Act		Clause of Bill
1	.. ..	Short Title, etc.
2	.. ..	..
3	.. ..	18 (2) (b)
4	.. ..	..

## THE STATUTES AMENDMENT ACT 1947, No. 60

Section of Act		Clause of Bill
63	.. ..	..

## THE STATUTES AMENDMENT ACT 1948, No. 77

Section of Act		Clause of Bill
44	.. ..	10

## THE STATUTES AMENDMENT ACT 1949, No. 51

Section of Act		Clause of Bill
53	.. ..	..
54	.. ..	10

## THE SHOPS AND OFFICES AMENDMENT ACT 1951, No. 11

Section of Act		Clause of Bill
1	.. ..	Short Title
2	.. ..	2 (1)
3	.. ..	19-22, 25, 39
4, 5	.. ..	..

## THE FINANCE ACT (No. 2) 1953, No. 115

Section of Act		Clause of Bill
25	.. ..	Spent

Hon. Mr Sullivan

## SHOPS AND OFFICES

### ANAYLSIS

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|--|--|
| Title.<br>1. Short Title. Commencement.<br>Division into Parts.<br>2. Interpretation.  | 15. Special provisions as to hours of employment.  |
| <i>Premiums</i>  |  |
| PART I<br>SHOPS<br><i>Closing of Shops</i><br>3. Fixing of opening and closing hours of shops by Court of Arbitration.<br>4. Sunday trading.<br>5. Closing in one shop carrying on two or more classes of business.<br>6. Exempted goods.<br>7. Sale of medicines and surgical appliances.<br>8. Sale of motor spirits, etc.<br>9. Telephonic, telegraphic, or postal business.<br>10. Exemptions from closing provisions may be granted by Magistrates' Courts. | 16. Premiums in respect of shop assistants or learners.  |
| <i>Hotels and Restaurants</i>  |  |
| <i>Hours of Employment in Shops</i><br>11. Hours of commencement and termination of employment of boys and females.<br>12. Limiting hours of employment of shop assistants.<br>13. Extended hours.<br>14. Payment for overtime worked unlawfully.  | 17. Foregoing provisions not to apply.<br>18. Limiting hours of employment of boys and females in restaurants.                             |
| PART II<br>SAFETY, HEALTH, AND WELFARE<br><i>Safety, Health, and Welfare Rules</i>   |  |
|  | 19. Rules to be complied with in shops, offices, warehouses, and stores.   |
| <i>Requisitions by Inspector</i>   |  |
|  | 20. Inspector may require any defect to be remedied.<br>21. Form and service of requisitions.<br>22. Appeal against requisitions.          |
| <i>Miscellaneous</i>   |  |
|  | 23. Liability of owner as to cost of alterations.<br>24. Power to order contravention to be remedied.<br>25. Proceedings under other Acts. |

PART III		
GENERAL PROVISIONS		
<i>Wages and Time Book</i>		
26. Wages and time book.		34. Proceedings to be taken by Inspector and heard before Magistrate alone.
<i>Exemptions</i>		35. Procedure.
27. Exemption of bazaars and sales for religious and other purposes.		36. Right of appeal.
28. Exemption of commercial travellers.		37. Evidence of employment.
<i>Offences and Procedure</i>		38. Liability to penalty does not relieve from payment of wages.
29. Offences by occupier.		<i>Miscellaneous Provisions</i>
30. Offences by assistants.		39. Powers of Inspectors.
31. Forgery and false entries, etc.		40. Matters may be completed by different Inspector.
32. Obstruction of Inspector.		41. Information obtained not to be divulged.
33. General penalty for offences.		42. Regulations.
		43. Act to be administered by Labour Department.
		44. Repeals and savings.
		Schedules.

## A BILL INTITULED

Title.	AN ACT to consolidate and amend the law relating to shops, offices, warehouses, and stores.	
	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.	1. (1) This Act may be cited as the Shops and Offices Act 1955.	
Commencement.	(2) This Act shall come into force on the fifth day of February, nineteen hundred and fifty-six.	10
Division into Parts.	(3) This Act is divided into Parts as follows:	
	Part I—Shops. (Sections 3 to 18.)	
	Part II—Safety, Health, and Welfare. (Sections 19 to 25.)	
	Part III—General Provisions. (Sections 26 to 44.)	15
Interpretation.	2. (1) In this Act, unless the context otherwise requires,—	
1921-22, No. 46, ss. 2, 28, 29, 36	“Assistant”, in relation to a shop, means a shop assistant as hereinafter defined; and, in relation to an office, warehouse, or store, means any person employed in the office, warehouse, or store:	20
1927, No. 53, s. 29	“Award” means an award made by the Court of Arbitration:	
1936, No. 11, ss. 2, 12		
1951, No. 11, s. 2		



5 | "Business" means any profession, trade, manufacture, or undertaking carried on for pecuniary gain; and includes the operations of any local authority, public body, society, or other body of persons of any kind, whether incorporated or not:

10 | "Chemist" means a person whose business is to sell medicines, drugs, herbal remedies, patent foods, surgical appliances, toilet requisites, or photographic requisites, and whose principal business is to sell medicines, surgical appliances, or herbal remedies:

15 | "Closing day", in relation to a shop, means the weekly closing day provided for that shop by a provision included in an award under paragraph (b) of subsection *one* of section *three* of this Act:

"Confectioner" means a person whose business is to sell confectionery or sweetmeats:

20 | "Dairy produce seller" means a person whose business is to sell fresh or preserved milk, cream, eggs, butter, or cheese:

"Exempted goods" has the meaning assigned to that term by subsection *two* of section *six* of this Act:

25 | "Factory" means a factory within the meaning of the Factories Act 1946:

30 | "Free day", in relation to a shop assistant, means a free day provided for him under paragraph (d) of subsection *one* of section *twelve* of this Act: 1946, No. 43

"Goods" includes all chattels personal other than money or things in action:

35 | "Holiday", in relation to a shop or a shop assistant, means a holiday prescribed by an award relating to that shop or assistant; but does not include a Sunday or a closing day or a free day:

"Hotel" means any premises in respect of which a publican's licence under the Licensing Act 1908 is for the time being in force:

"Inspector" means an Inspector of Factories appointed under the Factories Act 1946: Reprinted, 1951, p. 935

"Minister" means the Minister of Labour:

“Occupier” means the person occupying any building, enclosure, or place used or intended to be used as a shop, office, warehouse, or store; and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a shop, office, warehouse, or store; and, where a shop, office, warehouse, or store is occupied by a body of persons, whether incorporated or not, also includes the working manager; and also has the extended meaning assigned to it by subsection *two* of this section: 5

“Office” means any building in which any person is employed, directly or indirectly, to do any clerical work in connection with any business 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 situated within the factory or shop: 10

“Prescribed” means prescribed by this Act or by regulations made under this Act: 15

“Restaurant” means any building or place other than a hotel in which is carried on exclusively the business of selling meals or refreshments to the general public for consumption on the premises; and includes— 25

(a) Any building or place in which is carried on exclusively the business of a tea room or an oyster saloon; and

(b) Any building or place in which is carried on exclusively the business of a private hotel or a boardinghouse, and in which the number of boarders is usually five or more or the number of persons employed other than members of the family of the occupier is usually two or more. For the purposes of this definition the sale of smoking requisites to *bona fide* lodgers therein shall be deemed to be portion of the business of a private hotel or boardinghouse. Where a part only of a building or place is used for any such business that part alone constitutes the restaurant: 30

“Safety, health, and welfare rules” means the rules set out in the First Schedule to this Act: 35

“Sanitary conveniences” includes urinals, water closets, earth closets, privies, and any similar conveniences:

5 “Shop” means any building or place in which goods are kept, exposed, or offered for sale, or in which any part of the business of a shop is conducted; and includes a hotel, a restaurant, a hairdressing saloon, and an auction mart; but does not include—

10 (a) A private dwelling in which the household effects of the owner or occupier thereof are being sold by auction or otherwise; or

(b) Any building or place in which is carried on exclusively the business of selling by auction agricultural or pastoral products, including live stock; or

(c) Any warehouse; or

(d) Any private hotel or boardinghouse which is not a restaurant as hereinbefore defined,—

20 and the term “shop” also has the extended meaning assigned to it by subsection *two* of this section:

25 “Shop assistant”, in relation to any shop, means any person other than the wife or husband of the occupier, as the case may be, who is employed by the occupier of the shop in connection with the business of the shop; and includes,—

(a) Apprentices and improvers;

30 (b) All persons in the occupier’s employment who are engaged in selling or delivering his goods or canvassing for orders for his goods, whether those persons are at any time actually employed inside the shop or not; and

35 (c) Any person who by reason of his employment in the general management or control of the shop is deemed to be an occupier of the shop and whose wages do not exceed the minimum rate of wages fixed under the Minimum Wage Act 1945 for adult male or female workers, as the case may require,—

40 but in relation to a hotel or restaurant does not include any person employed therein as an engineer, an electrician, or a clerk; and the term “shop assistant” also has the extended meaning assigned to it by subsection *two* of this section:

“Store” means any building or place in which goods are kept; but does not include a shop or warehouse:

“Warehouse” means any building or place in which is carried on the business of selling goods to persons who are dealers therein and who buy to sell again: 5

“Week” means the period from midnight on Saturday up to and including midnight on the following Saturday: 10

“Weekday” means any day in the week except Sunday.

(2) 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: 15

(a) Every such person shall be deemed to be the occupier of a shop, and every assistant employed by him in or about that business shall be deemed to be a shop assistant within the meaning of this Act: 20

(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 or delivering goods to customers. 25

(3) For the purpose of determining whether or not any building or place is a shop or a restaurant within the meaning of this Act no account shall be taken of any business carried on therein which is not subject to this Act. 30

(4) Where a person is employed by the same employer in more than one of the establishments of a shop, an office, a warehouse, a store, or a factory, he shall be deemed for the purposes of this Act and of the Factories Act 1946, to be exclusively employed in that establishment in which he is chiefly employed. Any question as to which establishment any such person is chiefly employed in shall be determined by an Inspector, whose decision thereon shall be final and conclusive. 35

- (5) 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 the sale of goods, or in canvassing for orders, or in delivering goods to customers; but where a shop has a common entrance with a factory or an office it shall be sufficient for the purposes of this Act if that entrance is closed but not locked.
- (6) A shop shall not be deemed to be open merely by reason of the fact that newspapers are being sold or delivered away from the shop.

PART I

SHOPS

*Closing of Shops*

3. (1) In any award relating to the employment of shop assistants the Court of Arbitration, having regard to all relevant considerations, may, with the consent of the Judge of the Court,—
- (a) Fix the hour of opening or the hour of closing or both on any day of any shops in which is carried on any class of business to which the award relates in any industrial district in which the award has effect, or in any specified part of any such district, irrespective of whether or not any assistants are employed in those shops;
- (b) Provide that those shops shall be closed for the whole of one weekday in each week (whether or not the particular closing day is specified in the award);
- (c) Provide that those shops shall be closed for the whole of any holiday prescribed by the award; and
- (d) Provide that those shops shall not be required to be closed during such hours on Sunday (if any) as may be specified in the award:
- Provided that no provision applying to any shop other than a chemist's shop shall be included in any award under paragraph (d) of this subsection except with the prior consent of the Minister.

Fixing of opening and closing hours of shops by Court of Arbitration. 1921-22, No. 46, s. 69 (1), (4) 1945, No. 38, s. 3 (1), (2)

(2) Any provision included in an award under this section—

(a) May make different provisions in respect of different classes of shops or in respect of different shops of the same class: 5

(b) May be unconditional or subject to conditions.

(3) For the purposes of this section—

(a) The matters referred to in subsection *one* of this section shall be deemed to be industrial matters within the meaning of the Industrial Conciliation and Arbitration Act 1954: 10

(b) The occupier of every shop, whether employing assistants or not, shall be deemed to be an employer within the meaning of the Industrial Conciliation and Arbitration Act 1954. 15

(4) Where any award relating to the employment of shop assistants made before the commencement of this Act is in force at any time after the commencement of this Act, the Court of Arbitration may, with the consent of the Judge of the Court, on application made to the Court by any party bound by the award, amend the award by including therein any such provision as is referred to in subsection *one* of this section: 20

Provided that nothing in this subsection shall be deemed to authorize the Court to amend or revoke any provision for the time being included in an award. 25

(5) In any proceeding before the Court of Arbitration in relation to any of the matters referred to in this section any organization shall be entitled to appear and to be heard in respect of any such matter as if it were a party to the proceeding, if in the opinion of the Judge the organization or the members thereof may be affected by any result of the proceeding in respect of that matter. 30

(6) Every person who commits a breach of any award in relation to any of the matters referred to in this section commits an offence against this Act and shall be liable accordingly. Nothing in this subsection shall affect the liability of any person for an offence against the Industrial Conciliation and Arbitration Act 1954, but no person shall be punished under that Act and under this Act for the same offence. 35 40

4. (1) Except as otherwise provided by this Act or by any provision included in an award under section *three* of this Act, every shop shall be closed during the whole of Sunday. Sunday trading.

5 (2) The following shops may be open on Sunday except as otherwise provided by any provision included in an award under section *three* of this Act, namely:

(a) Any confectioner's shop:

(b) Any dairy produce seller's shop:

10 (c) Any shop used solely for the sale of any fruit, vegetables, or flowers by the grower thereof if the shop is on the premises where they are grown.

15 (3) Section eighteen of the Police Offences Act 1927 is hereby amended as follows: See Reprint of Statutes, Vol. II, p. 511

(a) By omitting from subsection two the word "shop":

(b) By adding to subsection three (as amended by section thirty-nine of the Statutes Amendment Act 1948) the words "or to any person carrying on or working in the business of a shop within the meaning of the Shops and Offices Act 1955". 1948, No. 77

20 5. (1) Where the occupier of a shop carries on two or more classes of business in one building or place or in buildings or places adjacent to one another, those businesses shall be deemed to be carried on in one shop. Closing in one shop carrying on two or more classes of business.

25 (2) Where the occupier of a shop sells or exposes for sale at any time any goods comprised in a particular class of business, then, subject to subsection *three* of this section and to any provision included in an award under section *three* of this Act, that shop shall be closed at all times when shops in which that class of business is carried on are required by or under this Act to be closed. 1921-22, No. 46, s. 30  
1927, No. 53, s. 12

30 (3) It shall not be necessary for any such occupier to close his shop at any such time if during that time—

35 (a) No such goods are sold or exposed for sale in or from the shop; and

40 (b) All such goods in the shop are kept in a part of the shop which is kept securely locked so that no person can see them and no person other than the occupier can have access to them.

6. (1) Nothing in this Act or in any award shall require or be deemed to require any shop to be closed at any time solely by reason of the fact that exempted goods are sold or exposed for sale in or from the shop. Exempted goods.

(2) For the purposes of this Act the term "exempted goods" means—

(a) Smoking requisites; and

(b) Goods of a class or kind exempted from the provisions of this Act relating to the closing of shops by the Governor-General by Order in Council issued under this section. 5

(3) The Governor-General may from time to time, by Order in Council, exempt from the provisions of this Act relating to the closing of shops any specified class or kind of goods, and may in like manner amend or revoke any such Order in Council. 10

(4) Every Order in Council under this section shall come into force on the date of its notification in the *Gazette*, or on such later date as may be specified therein in that behalf. 15

(5) The Minister may from time to time appoint a committee to consider and report on proposals to grant or amend or revoke exemptions under this section; and, while any such committee is in existence, no Order in Council shall be made under this section except after consideration of the report of the committee on the proposal to make the order. 20

(6) There shall be paid out of money appropriated by Parliament for the purpose to the members of any committee appointed under this section (other than persons in the service of the Crown) remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such committee were a statutory Board within the meaning of that Act. 25 30

1951, No. 79

Sale of medicines and surgical appliances. 1921-22, No. 46, s. 35 (4)

7. Nothing in this Act shall render it unlawful for the occupier of any chemist's shop to sell medicines or surgical appliances that are urgently required at any time when the shop is otherwise required by or under this Act to be closed, if— 35

(a) The shop is opened for that purpose only; and

(b) The shop is closed immediately after the sale is made; and 40

(c) The door of the shop is kept locked, except for the admission and exit of the customer.



8. (1) Nothing in this Act or in any award shall require or be deemed to require any shop to be closed at any time if the sole business of the shop is the sale of motor spirits, petrol, oil, or motor accessories.
- 5 (2) Nothing in this Act shall render it unlawful for the occupier of a shop to sell motor spirits, petrol, oil, or motor accessories that are urgently required at any time when the shop is otherwise required by or under this Act to be closed, if—
- 10 (a) The shop is opened for that purpose only; and  
 (b) The shop is closed immediately after the sale is made; and  
 (c) The door of the shop is kept locked, except for the admission and exit of the customer.
- 15 9. Nothing in this Act shall render it unlawful for the occupier of a shop in which telephonic, telegraphic, or postal business is carried on on behalf of the Postmaster-General to open the shop for the purpose of any such business at any time when the shop is otherwise required
- 20 by or under this Act to be closed, if—
- (a) The shop is opened for that purpose only; and  
 (b) The shop is closed immediately after the business is concluded; and  
 (c) The door of the shop is kept locked, except for the
- 25 admission and exit of the person with whom the business is conducted.
10. (1) The occupier of any shop which is required to be closed at any time by any provision of this Act or of any award may apply to a Magistrate's Court for total
- 30 or partial exemption from that provision.
- (2) The applicant shall cause notice of any such application to be published in some newspaper approved for the purpose by the Registrar of the Magistrate's Court, and to be sent to the Inspector, and to every industrial union of workers registered in respect of shop assistants employed in the particular trade in the locality, and to every industrial union of employers registered in respect
- 35 of the occupiers of shops in the particular trade in the locality.

Sale of motor spirits, etc.  
 1921-22,  
 No. 46, s. 72  
 1927, No. 53,  
 s. 28

Telephonic, telegraphic, or postal business.  
 1927, No. 53,  
 s. 8 (1)

Exemptions from closing provisions may be granted by Magistrates' Courts.  
 1927, No. 53,  
 s. 19  
 1945, No. 38,  
 s. 3 (3)  
 1948, No. 77,  
 s. 44  
 1949, No. 51,  
 s. 54

(3) At the hearing of any such application—

(a) Any occupier of a shop affected, and any representative of any such union of workers, and any representative of any such union of employers shall be entitled to appear and to be heard: 5

(b) Any organization shall be entitled to appear and to be heard if in the opinion of the Court the organization or the members thereof may be affected by any result of the proceeding.

(4) Subject to subsection *five* of this section, the Court, in its discretion, may refuse any such application for exemption, or may by order grant the application either wholly or partly and either unconditionally or upon or subject to such conditions as the Court thinks fit. 10

(5) The Court may make an order granting exemption as aforesaid if the Court is satisfied that it is desirable in the public interest to do so. In determining whether or not to make an order, and in making an order, the Court shall have regard to the interest of the occupier of any other shop that may be affected, but shall also have regard to the desirability of providing service to the public at all reasonable times, particularly in the case of any shop situated at a holiday resort. 15 20

(6) Any order made under this section may at any time be revoked or varied by a Magistrate's Court on application by the occupier of any shop affected by the order or by any such union of workers or union of employers as aforesaid, and all the provisions of this section shall, as far as they are applicable and with the necessary modifications, apply to an application under this subsection. 25 30

(7) Subject to subsection *six* of this section, any order made under this section in respect of any shop shall continue to apply to that shop, notwithstanding that the occupier for the time being of the shop may not be the person who was the occupier when the order was made, and, in the case of an order relating to an award, notwithstanding the provisions of any award made in substitution therefor: 35

Provided that if any occupier carries on in the shop any class of business which was not carried on in the shop when the order was made the order shall thereupon cease to apply to that shop. 40

(8) Where an order exempting the occupier of any shop wholly or partially from any provision of this Act or of any award is in force under this section, all the other provisions of the award (if any) affected and all the provisions of any other award in so far as they apply to the shop shall continue to apply in respect of that shop:

Provided that nothing in any award—

(a) Shall render it unlawful for the occupier to employ assistants during any time when the shop is permitted by the exemption to be open:

(b) Shall require the occupier (except in the case of extended hours in excess of forty hours in any one week) to pay any assistant so employed at a rate higher than his ordinary rate of wages in addition to his ordinary wages for any work done on a closing day or on a Sunday, or at a rate greater than twice his ordinary rate of wages in addition to his ordinary wages for any work done on a holiday.

*Hours of Employment in Shops*

11. (1) No person under the age of sixteen years shall be employed in connection with the business of any shop, or shall be engaged, whether under a contract of service or otherwise, in connection with the delivery of milk or newspapers, before seven o'clock in the morning:

Provided that a person whose age is not less than fourteen years may be employed or engaged in connection with the delivery of newspapers at any time not earlier than six o'clock in the morning.

(2) No assistant who is a male under the age of eighteen years or a female shall be employed in connection with the business of a shop after half past ten o'clock in the evening.

12. (1) Subject to the provisions of this Act, no shop assistant shall be employed in connection with the business of a shop—

(a) For more than forty hours (excluding meal times) in any week; or

(b) For more than eight hours (excluding meal times) on any day, except on one day in each week, when the employment may be for eleven hours (excluding meal times); or

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

Hours of commencement and termination of employment of boys and females.

1921-22, No. 46, ss. 3 (3), 4 (2)  
1927, No. 53, ss. 3, 4

Limiting hours of employment of shop assistants.

1921-22, No. 46, s. 22 (1)  
1936, No. 11, s. 3  
1945, No. 38, s. 2 (1), (5), (6)

(d) At any time on either of such two free days in each week as the occupier in the case of each assistant thinks fit.

(2) Notwithstanding anything in paragraph (c) of subsection *one* of this section, the period of four and one-quarter hours referred to therein may be extended in respect of the assistants employed in any shop to not more than five hours in cases where the occupier allows to those assistants an interval of not less than ten minutes for rest in every working period of not more than three hours. 5 10

(3) Every shop assistant employed in connection with the business of a shop shall be employed continuously on each day except for meal times and for intervals of rest provided as required by subsection *two* of this section. 15

(4) In any case where the meal time allowed to a shop assistant exceeds three-quarters of an hour the assistant shall, for the purposes of this Act, be deemed to be employed in connection with the business of the shop during that part of the meal time which exceeds three-quarters of an hour. 20

(5) The occupier of every shop shall, except in exceptional circumstances previously approved by an Inspector, give seven days' notice in writing to each assistant of any change in either of the free days fixed by the occupier for that assistant under paragraph (d) of subsection *one* of this section. 25

Extended hours.  
1936, No. 11,  
s. 7 (1), (2),  
(3)

13. (1) Subject to section *eleven* of this Act, any shop assistant may be employed during extended hours (that is to say, hours outside the limits prescribed for the assistant under section *twelve* of this Act): 30

Provided that the extended hours shall not be worked on more than one of the assistant's free days in any week:

Provided also that, in the case of an assistant who is a male under the age of sixteen years or a female, the extended hours— 35

(a) Shall not exceed three hours on any day other than a free day:

(b) Shall not exceed nine hours in any week.

(2) No shop assistant who is employed during extended hours shall be employed for more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for rest and refreshment. 40

(3) Every shop assistant who is employed during extended hours shall, at the first regular pay day thereafter, be paid therefor at not less than one-half as much again as his ordinary rate.

5 14. Where any worker is actually employed in or about a shop during extended hours he shall be paid therefor in accordance with the provisions of subsection *three* of section *thirteen* of this Act, notwithstanding that the extension of hours may have been unlawful.

Payment for overtime worked unlawfully. 1936, No. 11, s. 22

10 15. In order to prevent any evasion or avoidance of the limitations imposed on the employment of shop assistants the following provisions shall apply in the case of every shop assistant:

Special provisions as to hours of employment. 1921-22, No. 46, s. 9

15 (a) The 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 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:

20 (c) All work done for the occupier of the shop by the 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 while the assistant is employed in the shop, and the time shall be counted accordingly.

25

*Premiums*

30 16. (1) No premium shall be received by the occupier of any shop from any person whomsoever in respect of the employment of any shop assistant, or in respect of the teaching or training of any person in any trade or business carried on in the shop, unless the shop is approved as a school for learners in a trade or business by an Inspector and the payment is made pursuant to a written agreement that is approved for the purposes of this section by an Inspector.

Premiums in respect of shop assistants or learners. 1936, No. 11, s. 9

35 (2) An Inspector shall not approve any shop under this section as a school for learners in any trade or business unless he is satisfied that reasonable facilities are provided for learning the trade or business, and he may at any time withdraw his approval if he ceases to be so satisfied. An Inspector shall not approve any agreement under this section unless he is satisfied that the terms of the agreement are reasonable.

40

(3) If the occupier commits any breach of the provisions of subsection *one* of this section, or any breach of the provisions of any agreement approved by an Inspector under this section, he shall be liable on summary conviction to a fine not exceeding ten pounds. 5

(4) In any case where any money has been received in breach of this section (whether by way of deduction from wages or otherwise), or where any money has become payable by the occupier pursuant to an agreement approved for the purposes of this section, then, in addition 10  
to any other remedy therefor, and irrespective of any fine to which the occupier may be liable, the amount so received or payable may be recovered from the occupier in civil proceedings instituted by an Inspector in the name and on behalf of the person from whom the money was 15  
received, or to whom it is payable, as the case may be.

#### *Hotels and Restaurants*

Foregoing provisions not to apply.  
1921-22,  
No. 46, s. 37  
1936, No. 11,  
s. 11  
1945, No. 38,  
s. 2 (9)

17. Sections *three to sixteen* of this Act shall not apply to hotels or restaurants or to the assistants employed therein. 20

Limiting hours of employment of boys and females in restaurants.  
1921-22,  
No. 46, s. 40  
1927, No. 53,  
ss. 26, 30  
1936, No. 11,  
s. 14  
1946, No. 24,  
s. 3

18. (1) Subject to the provisions of this section, no male assistant under the age of eighteen years and no female assistant shall be employed in or about a restaurant or the business of a restaurant after half past ten o'clock in the evening. 25

(2) Nothing in this section shall render it unlawful to employ any female assistant over the age of twenty-one years—

(a) In connection with any dance, banquet, or other social function, or the supplying of refreshments to patrons in any public dance hall: 30

(b) For not more than one hour immediately after half past ten o'clock in the evening of any day,— if provision to the satisfaction of the Inspector is made for the conveyance of the assistant to her home on the completion of her work. 35

PART II

SAFETY, HEALTH, AND WELFARE

*Safety, Health, and Welfare Rules*

19. The rules set out in the First Schedule to this Act shall at all times be complied with in every shop, office, warehouse, and store.

Rules to be complied with in shops, offices, warehouses, and stores.  
1921-22, No. 46, s. 50  
1951, No. 11, s. 3

*Requisitions by Inspector*

20. In any case where in the opinion of an Inspector any safety, health, and welfare rule is not being complied with or is being insufficiently complied with in relation to any shop, office, warehouse, or store, or in any case where in the opinion of an Inspector there is any defect whatsoever in any shop, office, warehouse, or store, the Inspector may, by requisition to the occupier, require that the rule be duly and properly complied with, or, as the case may be, that the defect be remedied to the satisfaction of the Inspector.

Inspector may require any defect to be remedied.  
1921-22, No. 46, s. 50 (e), (f)  
1951, No. 11, s. 3

21. (1) Every requisition by an Inspector under this Part of this Act shall be in writing under the hand of the Inspector.

Form and service of requisitions.  
1921-22, No. 46, s. 53 (a), (b), (c)  
1951, No. 11, s. 3

(2) A requisition to the occupier of a shop, office, warehouse, or store may be addressed to and served on the occupier under his usual business name or style.

(3) A requisition to an occupier may be served either by delivering it to any person who comes within the definition of the term "occupier" in section two of this Act, or by posting it by registered letter addressed to the occupier at the shop, office, warehouse, or store. A requisition so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

(4) The requisition, when served as aforesaid, shall bind every person who by virtue of the definition of the term "occupier" in section two of this Act is deemed to be an occupier of the shop, office, warehouse, or store.

Appeal against  
requisitions.  
1921-22,  
No. 46, s. 53  
(d) to (g)  
1951, No. 11,  
s. 3

22. (1) If any occupier considers any requisition by an Inspector to be unreasonable he may appeal against it by filing in the Magistrate's Court nearest to the shop, office, warehouse, or store a notice of appeal in the prescribed form, setting forth with reasonable particularity the grounds of the appeal. A copy of the notice of appeal shall be served on the Inspector. 5

(2) The appeal shall be void unless the notice of appeal is duly filed as aforesaid within fourteen days after the date of service of the requisition. 10

(3) Upon the notice of appeal being duly filed the Registrar of the Magistrate's Court shall fix a time and place for the hearing of the appeal, being the earliest convenient time, and shall, by notice in the prescribed form, notify the appellant and the Inspector of the time and place fixed for the hearing of the appeal. 15

(4) On the hearing of the appeal the Court may by order confirm, reverse, or modify the requisition, as it thinks fit, and the order shall be final and binding on all parties. 20

#### Miscellaneous

Liability of  
owner as to cost  
of alterations.

23. (1) In any case where an Inspector has, by requisition to the occupier of any shop, office, warehouse, or store, required the occupier to do any thing or carry out any work which in the opinion of the occupier cannot be done or carried out without making alterations to the building in which the shop, office, warehouse, or store, or any part thereof is situated, the occupier, if he is not the owner of the building, may, within fourteen days after the requisition is served on him, serve a copy thereof on the owner or on the agent of the owner. 25 30

(2) If the occupier duly serves a copy of the notice on the owner or his agent as aforesaid he shall be entitled to recover in any Court of competent jurisdiction from the owner, as a debt, such part of the cost of making the alterations as in the opinion of the Court is just and equitable having regard to all the circumstances of the case. 35

(3) The owner or his agent shall have the right at any time within fourteen days after the copy of the requisition is served on him as provided in subsection *one* of this section to appeal to a Magistrate's Court against the requisition, and the provisions of section *twenty-two* of this Act shall apply accordingly. 40



24. (1) If in any proceedings against any person for any offence against this Act, the defendant is the occupier of a shop, office, warehouse, or store, and the offence consists of failure to comply with any safety, health, or welfare rule or with any Inspector's requisition, the Court, in addition to or instead 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 further non-compliance with the rule or requisition, and may specify a time within which the order shall be obeyed. The time so specified may be extended by the Court on the application of the defendant.

Power to order  
contravention  
to be remedied.  
1921-22,  
No. 46, s. 61

(2) If the Court makes the order instead of imposing a fine, the Court shall adjourn the proceedings until the expiry of the time specified in the order. If the order is duly obeyed the Court may, if it thinks fit, impose no fine in respect of the offence.

(3) If default is made in duly obeying the order within the time or extended time specified in that behalf, the defendant commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding ten pounds for every day during which the default continues. Any fine imposed under this subsection shall be irrespective of any fine to which the defendant is liable in respect of the original offence.

25. Where it appears to an Inspector that any nuisance or defect in or in relation to a shop, office, warehouse, or store may be remedied or dealt with under any enactment relating to the public health or to local government more effectually than under this Act, the Inspector shall give notice of the nuisance or defect to a Medical Officer of Health or to a local authority having jurisdiction in the locality, and it shall be the duty of that Medical Officer or local authority, as the case may be, to take all necessary action under that enactment to cause the nuisance to be abated or the defect to be remedied.

Proceedings  
under other  
Acts.  
1921-22,  
No. 46, s. 52  
1951, No. 11,  
s. 3

## PART III

## GENERAL PROVISIONS

*Wages and Time Book*

Wages and  
time book.  
1921-22,  
No. 46,  
s. 12 (1), (3),  
(5)  
1936, No. 11,  
s. 20

26. (1) In every shop or office in which one or more assistants are employed the occupier shall at all times keep in the prescribed form, or in such other form as may be approved by an Inspector, a record in English (called the wages and time book) showing, in the case of each assistant,—
- (a) The name of the assistant;
  - (b) His age if under twenty-one years of age;
  - (c) The kind of work on which he is usually employed;
  - (d) The award or industrial agreement (if any) under which he is employed;
  - (e) The hours of his employment during each day;
  - (f) The wages paid on each pay day and the date thereof; and
  - (g) Such other particulars as are prescribed.
- (2) The wages and time book in use for the time being, and every such book used within the preceding two years, shall at all times be open to inspection by an Inspector.
- (3) An Inspector may at any time during ordinary working hours require the occupier to verify the entries in any wages and time book by statutory declaration, or in such manner and form as may be prescribed.

*Exemptions*

Exemption of  
bazaars and  
sales for  
religious and  
other purposes.  
1921-22,  
No. 46, s. 54

Exemption of  
commercial  
travellers.  
1921-22,  
No. 46, s. 71

27. This Act shall not apply to any bazaar, or sale of work, or other like method of raising money, carried on exclusively for religious, public, or charitable purposes for any period not exceeding two weeks.
28. This Act shall not apply to persons employed principally as *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.

*Offences and Procedure*

29. (1) In every case where under this Act any requirement, obligation, rule, or provision is imposed or enacted or required to be complied with in respect of any shop, office, warehouse, or store (whether in connection with the premises, or the conduct of the business, or the treatment of persons employed, or otherwise), the occupier shall cause the requirement, obligation, rule, or provision to be complied with, and if it is not duly and faithfully complied with the occupier commits an offence against this Act.

Offences by occupier.  
1921-22,  
No. 46, s. 55

(2) In any case where under this Act any requisition of an Inspector is served on the occupier of any shop, office, warehouse, or store, and the requisition is not duly and faithfully complied with within such time as may be fixed by the requisition or by the Court on appeal, or, if no time for compliance is so fixed, within a reasonable time, the occupier commits an offence against this Act.

30. Every assistant in a shop, office, warehouse, or store who is employed in breach of this Act, or who causes an offence against this Act to be committed, commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding five pounds for each such offence.

Offences by assistants.  
1921-22,  
No. 46, s. 57

31. Every person commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months, who—

Forgery and false entries, etc.  
1921-22,  
No. 46, ss. 56,  
66 (6)

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

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

(c) Personates any person named in any such document, or falsely pretends to be an Inspector; or

(d) Gives or issues, or uses, any such document knowing it to be untrue in any material particular; or

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

Obstruction of  
Inspector.

32. Every person commits an offence against this Act who—

(a) Without reasonable cause delays an Inspector in the exercise of any of his powers or duties under this Act: 5

(b) Fails to produce any document which he is required under this Act to produce:

(c) Conceals or prevents, or attempts to conceal or prevent, any person from appearing before and being examined by an Inspector. 10

General penalty  
for offences.  
1921-22,  
No. 46, s. 59

33. Every person who commits an offence against this Act or any regulation made under this Act for which no specific penalty is elsewhere provided shall be liable on summary conviction to a fine not exceeding twenty-five pounds for each such offence, and, if the offence is a continuing one, to a further fine not exceeding five pounds for each day on which the offence continues. 15

Proceedings to  
be taken by  
Inspector and  
heard before  
Magistrate  
alone.

1921-22,  
No. 46, s. 60

34. All proceedings in respect of offences or matters of complaint under 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. 20

Procedure.  
1921-22,  
No. 46, ss. 60,  
62 (d)-(k)

35. (1) An Inspector who lays an information or makes a complaint in respect of any offence or matter under this Act shall not be called on to prove that he is an Inspector. Any such information or complaint may be proceeded with and conducted by the same or any other Inspector or by any person permitted by the Court to conduct it. 25

(2) In any proceedings under this Act it shall be sufficient in the information or complaint to allege that a shop, office, warehouse, or store is a shop, office, warehouse, or store, and to state the name of the ostensible occupier of the shop, office, warehouse, or store, or the style or title under which the occupier is usually known or carries on business. Any information or complaint may from time to time be amended by the Court as to the actual name of the defendant. 30 35

(3) In any proceedings under this Act it shall lie upon the defendant to bring himself under any exemption, proviso, excuse, or qualification; and it shall not be necessary for the same to be negatived in the information or complaint. 40

(4) A defendant may, except in proceedings under section *thirty-one* of this Act, be called by the Inspector, and shall be compellable to give evidence as a defendant in a civil action is compellable.

5 (5) Several charges or complaints against the same person may be heard together if the Court thinks fit so to hear them, and charges and complaints against several persons may be heard together with the consent of the parties if the Court so orders; and in all such cases a  
10 witness sworn to give evidence in respect of one charge or complaint shall for all purposes be deemed to be a witness in respect of each charge or complaint.

(6) In any proceedings on an information, any order which the Court is empowered to make may be made  
15 without a complaint being laid.

(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.

20 **36.** The Inspector or the defendant, if dissatisfied with the judgment of the Court on any summary proceedings under this Act, may appeal to the Supreme Court in manner provided by the Justices of the Peace Act 1927.

Right of appeal.  
1921-22,  
No. 46, s. 63

See Reprint  
of Statutes,  
Vol. II, p. 351

25 **37.** (1) In any proceedings against the occupier of a shop for employing any assistant therein in breach of this Act the fact of the assistant being found in the shop 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,  
30 consent, or connivance of the occupier.

Evidence of  
employment.  
1921-22,  
No. 46, ss. 58,  
65

(2) If any person other than the occupier is engaged in any work in connection with the business of a shop, office, warehouse, or store, it shall lie on the occupier to show that that person is not an assistant in the shop,  
35 office, warehouse, or store.

**38.** The fact that an occupier is liable to a fine or penalty under this Act for any offence shall not relieve him from his civil liability in respect of wages or other payments due by him.

Liability to  
penalty does  
not relieve from  
payment of  
wages.  
1921-22,  
No. 46, s. 64

*Miscellaneous Provisions*

Powers of  
Inspectors.  
1921-22,  
No. 46, ss. 34,  
66  
1951, No. 11,  
s. 3

39. (1) For the purposes of this Act every Inspector may—

(a) Enter, inspect, and examine any shop, office, warehouse, or store at all reasonable hours by day and night, and enter, inspect, and examine by day any place which he has reasonable cause to believe to be a shop, office, warehouse, or store: 5

(b) Take with him in either case a constable to assist him in the execution of his duty. 10

(2) Every occupier of a shop, office, warehouse, store, or place who refuses to allow any such entry or inspection or examination commits an offence against this Act.

(3) Every Inspector may examine, either alone or in the presence of another person, as he thinks fit, with respect to matters under this Act every person whom he finds in a shop, office, warehouse, or store, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a shop, office, warehouse, or store, and may require any such person to make and sign a statutory declaration of the matters in respect of which he is so examined: 15 20

Provided that on any examination or inquiry by an Inspector no person shall be required under this section to answer any question tending to incriminate himself. 25

(4) Every Inspector shall be furnished with a certificate of his appointment in the form prescribed under the Factories Act 1946, and on applying for admission to a shop, office, warehouse, or store, he shall, if required, produce the certificate to the occupier. 30

(5) Every Inspector may require the occupier of any shop to make a statutory declaration as to the principal business carried on in the shop, or as to all or any goods sold in the shop, or may require the occupier to furnish the Inspector with such other evidence as he may possess in respect of any such matters. 35

1946, No. 43

40. Notwithstanding anything to the contrary in the foregoing provisions of this Act, if an Inspector has issued any requisition or given any direction, exemption, authorization, or consent, whether upon or subject to any conditions or not, the same or any other Inspector may withdraw the requisition or take further steps thereon, or revoke or from time to time vary the direction, exemption, authorization, or consent, or any condition upon or subject to which it has been given.
- 5
- 10 41. (1) No information obtained by any Inspector or other person under any of the powers conferred by this Act or by any regulations made under this Act shall be communicated to any person or made use of except for the purposes of this Act.
- 15 (2) Every person who acts in contravention of this section commits an offence against this Act.
- 20 42. (1) The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated or required by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.
- 25 (2) Regulations made under this Act may be so made as to apply generally throughout New Zealand, or within any specified part or parts thereof, or within the whole of New Zealand except such part or parts as may be specified in the regulations.
- 30 (3) Regulations made under this Act may be so made as to apply to all shops, offices, warehouses, or stores or to any class or description of shops, offices, warehouses, or stores or parts of shops, offices, warehouses, or stores, and may provide for the exemption of any specified class or description of shops, offices, warehouses, or stores
- 35 either absolutely or subject to conditions.
- (4) Regulations made under this Act may impose duties not only on occupiers, but also on owners of shops, offices, warehouses, or stores, or premises in which shops, offices, warehouses, or stores are situated, and on other persons.
- 40 43. This Act shall be administered by the Department of Labour established under the Labour Department Act 1954, and the First Schedule to that Act is hereby

Matters may be completed by different Inspector.

Information obtained not to be divulged.

Regulations. 1921-22, No. 46, s. 67

Act to be administered by Labour Department. 1954, No. 71

accordingly amended by omitting the reference to the Shops and Offices Act 1921-22, and substituting a reference to this Act.

Repeals and savings.

See Reprint of Statutes, Vol. VIII, p. 568

44. (1) The enactments specified in the Second Schedule to this Act are hereby repealed. 5

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, 10 and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had 15 been in force when the document was made or the thing was done.

Section 19

SCHEDULES

FIRST SCHEDULE

SAFETY, HEALTH, AND WELFARE RULES FOR SHOPS, OFFICES, WAREHOUSES, AND STORES

1. *Noxious or Dangerous Liquids, Gases, or Materials.*—(1) Every container holding any noxious or dangerous liquid, gas, or material shall be securely stored.

(2) Without limiting the generality of subclause (1) of this rule, it is hereby declared that—

(a) Dangerous goods as defined in the Explosive and Dangerous Goods Act 1908 shall be stored as provided for therein or in any regulations for the time being in force made thereunder:

(b) Dangerous drugs as defined in the Dangerous Drugs Act 1927 shall be stored as provided for therein or in any regulations for the time being in force made thereunder.

(3) Gas cylinders or bottles shall be stored horizontally on chocks or on properly constructed racks in such positions that they will be protected from heat or damage.

2. *Precaution Where Assistants Are Employed Under Loads.*—In any case where any assistant is engaged in any work under something which has been raised or lifted for the purpose of enabling the work to be done, supports shall be placed under that thing to ensure that it does not drop or is not lowered while the assistant is so engaged.

3. *Limitation of Loads to be Carried.*—No assistant shall be employed to lift, carry, or move any load so heavy as to be likely to cause injury to him.



FIRST SCHEDULE—*continued*

*4. Safe Means of Access and Safe Place of Employment.—*(1)

There shall, as far as reasonably practicable, be provided and maintained safe means of access to every place at which any assistant has at any time to work.

(2) Without limiting the generality of subclause (1) of this rule, it is hereby declared that there shall be two safe means of access, remotely separated from each other, in the case of any basement where the area exceeds 1,000 square feet.

(3) Where any assistant is to work at a place from which he is liable to fall a distance more than ten feet, then, unless the place is one which affords secure foothold and, where necessary, secure handhold, means shall be provided, as far as reasonably practicable, by fencing or otherwise for ensuring his safety.

(4) Sufficient space shall be provided by the occupier in every room in which assistants are engaged to permit reasonable movement without risk of accident to any assistant.

(5) Where a refrigerating plant used in any premises includes a refrigerating chamber of sufficiently large dimensions to permit a person to enter therein, the refrigerating chamber shall be so constructed that at all times and under all circumstances a door of escape can be readily opened by any person who may be within the chamber, even if securely locked from the outside. There shall be fixed within the chamber permanent luminous directional notices or pilot lights or such other means of clearly indicating the position of that door as may be approved by an Inspector.

*5. Construction and Maintenance of Floors, Passages and Stairs.—*

(1) All floors, steps, stairs, landings, passages, gangways, and ladders which are used or likely to be used by assistants shall be of sound construction and properly maintained whether or not they belong to the shop, office, warehouse, or store.

(2) Steps and stairs which are used or likely to be used by assistants, whether or not the steps or stairs belong to the shop, office, warehouse, or store, shall be provided with substantial handrails, and shall also, if an Inspector by requisition to the occupier so directs, be provided with slats or some other sufficient means of preventing slipping.

(3) All openings in floors shall be securely fenced, except so far as the nature of the work renders such fencing impracticable.

(4) Every doorway or other opening used for hoisting or lowering goods or materials, whether by mechanical power or otherwise, shall be securely fenced and shall be provided with secure handholds on each side of the opening or doorway.

(5) Every pit shall either be completely covered or be securely fenced to at least the height of three feet above the adjoining ground or platform.

(6) No stairs or passage used or likely to be used by assistants, whether or not the stairs or passage belongs to the shop, office, warehouse, or store, shall be so steep, narrow, winding, intricate, insecure, or otherwise defective as to be unsafe.

FIRST SCHEDULE—*continued*

6. *Fire Precautions.*—(1) Efficient means of egress in case of fire shall be provided to such an extent as may from time to time be required by the by-laws of any local authority within whose district the shop, office, warehouse, or store is situated.

(2) Where an Inspector finds that the requirements of this rule are not complied with, he shall proceed in the manner prescribed by section 25 of this Act, and not by way of requisition under section 20 of this Act.

7. *Cleanliness.*—The shop, office, warehouse, or store shall be kept in a clean state, and free from any nuisance and from any smell or leakage from any drain or sanitary convenience.

8. *Overcrowding and Air Space.*—The shop, office, warehouse, or store shall not be overcrowded so as to cause risk of injury to the health of the assistants.

9. *Ventilation.*—Every room in the shop, office, warehouse, or store 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 steam, fumes, dust, and other impurities arising in the course of the work carried on.

10. *Lighting.*—(1) Effective provision shall be made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of the shop, office, warehouse, or store in which persons are working or passing.

(2) Artificial lights shall be so placed and so shaded that no assistant shall be subjected to any avoidable glare.

(3) All glazed windows and skylights used for the lighting of rooms shall, as far as practicable, be kept clean on both the inner and outer surfaces and free from obstruction.

(4) All skylights not glazed with shatterproof material shall be protected to the satisfaction of an Inspector.

11. *Temperature and Heating Appliances.*—Effective provision shall be made for securing and maintaining a reasonable temperature in each room, but no method shall be employed which results in the escape into the air of any room of any fumes of such a character and to such an extent as to be likely to be injurious or offensive to assistants employed therein.

12. *Sanitary Conveniences.*—(1) The occupier shall provide sufficient and suitable sanitary conveniences for the assistants, and where members of both sexes are employed, not being members of the same family, the conveniences shall be entirely separate for each sex so as to ensure privacy.

(2) The conveniences shall be conveniently accessible to the assistants, properly ventilated and lighted, and built of impervious material or material that can be easily cleaned, and shall not open directly into any room in which work is performed.

(3) The conveniences shall be properly maintained and kept clean.

## FIRST SCHEDULE—continued

13. *Drainage of Floors.*—Where any work is carried on which renders the floor liable to be wet to such an extent that the wet is capable of being removed by draining, effective means shall be provided and maintained for draining off the wet and protecting the assistants.

14. *Drinking Water.*—An adequate supply of wholesome drinking water shall be provided for the free use of the assistants.

15. *Washing Facilities.*—There shall be provided and maintained for the use of the assistants adequate and suitable facilities for washing, which shall include a sufficient supply of soap and clean towels or other suitable means of cleaning or drying; and the facilities shall be conveniently accessible and shall be kept in a clean and orderly condition.

16. *Accommodation for Clothing.*—There shall be provided and maintained for the use of the assistants adequate and suitable accommodation for clothing not worn during working hours.

17. *Sitting Accommodation.*—Reasonable and convenient sitting accommodation, to the satisfaction of an Inspector, shall at all times be provided for each assistant.

18. *First Aid Facilities.*—The occupier shall provide and maintain first aid facilities, appliances, and requisites to the satisfaction of an Inspector.

19. *Rest Room for Female Assistants.*—The occupier shall provide and maintain to the satisfaction of an Inspector a rest room available for the use of the female assistants employed in every shop, office, warehouse, or store in which more than six female assistants are employed, and in every other shop, office, warehouse, or store where an Inspector by requisition to the occupier so requires.

20. *Accommodation for Meals.*—Where the number of assistants (other than those who can reasonably obtain their meals at their places of residence within the time at their disposal for that purpose) is six or more, the occupier shall provide and maintain a suitable room in which they may take their meals, which shall be furnished to the satisfaction of an Inspector:

Provided that an Inspector may exempt any occupier from the requirements of this rule in any case where he is satisfied that the provision of such a room is not reasonably necessary.

21. *Sleeping Accommodation.*—In cases where sleeping accommodation is provided by the occupier that accommodation shall have sufficient air space, and shall be well lighted, and shall also be a sufficient distance away from any sanitary convenience, so as to be free from any smell or leakage that may arise therefrom.

## SECOND SCHEDULE

## ENACTMENTS REPEALED

Section 44

1921-22, No. 46—

The Shops and Offices Act 1921-22. (Reprint of Statutes, Vol. III, p. 240. Reprinted 1943, p. 346.)

1927, No. 53—

The Shops and Offices Amendment Act 1927. (Reprint of Statutes, Vol. III, p. 283. Reprinted 1943, p. 387.)

1936, No. 11—

The Shops and Offices Amendment Act 1936. (Reprinted 1943, p. 394.)

1937, No. 38—

The Statutes Amendment Act 1937: Section 29. (Reprinted 1943, p. 401.)

1945, No. 38—

The Shops and Offices Amendment Act 1945.

1946, No. 24—

The Shops and Offices Amendment Act 1946.

1947, No. 60—

The Statutes Amendment Act 1947: Section 63.

1948, No. 77—

The Statutes Amendment Act 1948: Section 44.

1949, No. 51—

The Statutes Amendment Act 1949: Sections 53 and 54.

1951, No. 11—

The Shops and Offices Amendment Act 1951.

1953, No. 115—

The Finance Act (No. 2) 1953: Section 25.