

New Zealand.



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1904, No. 52.

AN ACT to consolidate and amend the Law relating to Shops and Offices. Title.
[8th November, 1904.]

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

1. The Short Title of this Act is "The Shops and Offices Act, Short Title. 1904."

Interpretation.

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

“Borough” includes city :

“Inspector” means any Inspector of Factories appointed under “The Factories Act, 1901” :

“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 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, the working manager shall also be deemed to be included in the term “occupier” :

“Office” means any building in which any person is employed, directly or indirectly, to do any clerical work in connection with any mercantile or commercial business or calling carried on therein by the occupier thereof ; but does not include any solicitor’s office or any mining company’s office, miners’ union office, or any building or room in which the clerical work of a factory or shop is carried on if situate within the factory or shop :

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

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

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

“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 ; but does not include a warehouse doing exclusively a wholesale business :

“Shop-assistant” means any person (whether a member of the occupier’s family or not) who is employed by the occupier of a shop in or about the business of the shop, and includes—

(a.) Apprentices and improvers ; and also

(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 such persons are at any time actually employed inside the shop or not :

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

SHOPS.

Early Closing.

Shops to be closed
at certain hours.

3. All shops in the combined districts of Auckland, Wellington, Christchurch, and Dunedin in which two or more persons (including the occupier) are employed shall be closed for business between the hours of six o’clock in the evening and eight in the morning of the next succeeding working-day on four days of the week, and between the hours of nine o’clock in the evening and eight in the morning of the next succeeding working-day on one day of the week : Provided that if such one day of the week be Christmas Eve or New Year’s Eve,

then shops may on that day be kept open until eleven o'clock in the evening; and also that, in case Christmas Day or New Year's Day falls on a Sunday or on a Monday, then shops may be kept open until eleven o'clock in the evening on the Saturday immediately preceding: Provided further that for the purpose of this section refreshment-rooms shall not be deemed to be shops.

Hours of Employment, &c.

4. (1.) A shop-assistant shall not be employed in or about the shop or its business— Hours of employment.

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

(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

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

(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 Arbitration Court is in force relating to the 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 under ordinary circumstances exceed the hours limited by paragraph (a) of the last preceding subsection hereof by more than three hours in any one week.

(3.) For the purposes of stock-taking, or other special work, such working-hours may, with the previous written consent of the Inspector, be extended, but not for more than three hours in any one day on not more than thirty days in any one year:

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

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

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

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

Special provisions
as to hours of
employment.

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

- (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.

Sitting-accommoda-
tion for women.

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

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

Provisions relating to Payment of Wages.

Wages must be
paid.

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

- (a.) Every person who is employed in any capacity in a shop shall be entitled to receive from the occupier payment for the work as is agreed upon, being in no case less than five shillings per week for the first year, eight shillings per week for the second year, and eleven shillings per week for the third year, and so on, with an annual increase of not less than three shillings per week during every succeeding year of employment in the same trade until twenty years of age.
- (b.) Such rate of payment shall in every case be irrespective of overtime.
- (c.) Payment shall be made in full at weekly or other intervals as agreed on, being in no case longer than fortnightly intervals.
- (d.) If the occupier makes default for fourteen days in the full payment of any money payable by him as aforesaid, he shall be liable to a fine not exceeding five shillings for every day thereafter during which such default continues.
- (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.

(f.) No premium in respect of the employment of any shop-assistant shall be paid to or be received by the occupier, whether such premium is paid by the shop-assistant employed or by some other person; and if the occupier commits any breach of the provisions of this subsection he shall be liable to a fine not exceeding ten pounds.

(g.) In any case where a premium has been paid or received in breach of the last preceding paragraph, or where the occupier has made any deduction from wages, or received from the shop-assistant, or from any person on behalf of the shop-assistant, any sum in respect of such premium or employment, then, irrespective of any fine to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the occupier in civil proceedings instituted by the Inspector in the name and on behalf of the shop-assistant concerned.

Weekly Half-holiday.

8. (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 district."

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

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

9. (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 o'clock in the afternoon for the remainder of the day. Shops to close on statutory closing-day.

(2.) Such day (hereinafter referred to as "the statutory closing-day") shall in every case be one and the same working-day in the same separate or combined district: 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 during the month of January in each year, or within one month after a shop is first opened for business, as the case may be, notice in writing of his desire so to do.

10. The statutory closing-day in each separate district shall be appointed in manner following:— Appointment of statutory closing-day in separate districts.

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

In combined districts.

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

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

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

Proceedings of conference.

12. 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.

(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.

(c.) Of the delegates appointed by the City Council its Mayor shall in every case be one.

(d.) In the month of December of each year the City Council or other the constituent local authority of the borough or town district having the largest population (hereinafter referred to as “the convening local authority”) shall fix a convenient time in the month of January for the meeting of the conference, and shall notify the same to all the other constituent local authorities and request them to appoint their delegates.

(e.) The meeting of the conference shall be held at the time so fixed, and at the office of the convening local authority.

(f.) 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.

(g.) At the first meeting of the conference the members shall appoint one of their number to be chairman, and if they fail to do so, then the Mayor or Chairman of the convening local authority shall be chairman of the conference.

- (h.) The proceedings of the conference shall not be affected by the fact that the full number of delegates has not been appointed.
- (i.) 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.

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

When Minister may appoint statutory closing-day.

14. (1.) The statutory closing-day appointed by the Minister shall, in the case of each separate or combined district, be the statutory closing-day in such district on and from the first day of March next following the appearance of the *Gazette* notice appointing the same, and shall so continue until altered by a like notice under this Act.

Notice of statutory closing-day to be gazetted.

(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.

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

Excepted shops.

- (a.) (i.) In the case of any shop wherein is exclusively carried on any one or more of the businesses of a fishmonger, a fruiterer, a confectioner, a refreshment-room keeper, 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:

Provided that the provisions of this subsection shall not affect the right of any shop-assistant employed in any such excepted shop to a half-holiday 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.

- (ii.) For the purposes of this section,—

A "fishmonger" means a person whose business is to sell fish or shell-fish;

A "fruiterer" means a person whose business is to sell fresh fruit or vegetables;

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

A "refreshment-room keeper" means a person whose business is to sell meals, but does not include an hotel-keeper;

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

(b.) In the case of any shop wherein is carried on the business of a butcher, a hairdresser, a tobacconist, or a photographer, the occupier may, in the event of Saturday being appointed as the statutory closing-day in the district, close his shop at the hour of one in the afternoon for the remainder of the day on some other working-day than Saturday in each week, as he thinks fit:

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

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

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

(ii.) In the case of a shop or warehouse in which the business carried on is the sale of machinery for harvesting purposes, or fittings for such machinery, and which is kept open as aforesaid during the time of harvest for the sole purpose of selling such machinery or fittings; and

(iii.) In the case of a chemist's shop, for the sole purpose of supplying medicines and surgical appliances which are urgently required; and

(iv.) In the case of a shop wherein telephonic, telegraphic, or postal business is carried on on behalf of the Postmaster-General, and open as aforesaid solely for the purpose of such business: Provided that when such shop is the only shop in the locality within a radius of three miles, such shop may be kept open for ordinary business.

Special holidays.

16. 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 proclamation by the Governor, or declaration by the Government, or on the request of the Mayor or Chairman of a local authority, is generally observed as a public holiday or half-holiday:—

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

(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.

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

17. 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 will be sufficient for the purposes of this Act if such entrance is closed but not locked.

When shop deemed not to be closed.

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

In case of shop and factory combined.

19. The ordinary wages or salary of every shop-assistant shall be paid for the half-holiday hereinbefore provided, and for any holiday observed under section sixteen hereof, at the first regular pay-day after the half-holiday.

Wages to be paid for half-holiday.

20. All assistants employed in hotel-bars shall have a half-holiday from the hour of one of the clock in the afternoon of some working-day in each week.

Assistants in hotel-bars to have half-holiday.

Closing by Requisition.

21. (1.) On the requisition in writing of a majority of the occupiers of all the shops in the district of any local authority (not being one of the districts mentioned in section three hereof) desiring that all the shops therein shall be closed in the evening of every working-day at an hour specified in the requisition, the Minister shall, by notice in the *Gazette*, direct that from and after a day therein mentioned all shops in the 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 by the Minister, all shops in the district shall be closed accordingly:

Fixing closing-hours of shops.

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

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

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

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

(5.) For the purpose of this section the interpretation of "occupier" in section two is so far modified as to include only British subjects, whether by naturalisation or otherwise.

As to Hawkers.

Hawkers deemed to be "occupiers."

22. 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.
- (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.

OFFICES.

Closing-hour for Offices.

Office hours.

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

Provided that this section shall not apply to shipping, railway, tramway, newspaper, telegraph agencies', cable companies', or telegraph companies' offices, or offices of freezing companies, or offices of forwarding agencies, or offices of live-stock auctioneers.

(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.

Provision for closing on statutory closing-day.

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

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

Wages to be paid for half-holiday.

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

Employment of Office-assistants.

Employment after office hours.

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

(2.) An office-assistant shall be deemed to be employed in the office within the meaning of this section if he in fact does any work

in or about the office, whether the occupier of the office has assented thereto or not.

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

27. (1.) It shall not be deemed to be a breach of the last preceding section if, while an office is by this Act required to be closed, an office-assistant is employed in the office in the cases and for the purposes following:—

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

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

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

Provided that he shall in no case be employed under this 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.

(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:

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

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

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

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

(4.) 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 rate of payment: Provided that in no case shall such rate of payment be less than ninepence an hour: Provided further that no payment for such extended hours as aforesaid shall be made to any office-assistant whose wages are or exceed two hundred pounds per annum.

SANITATION OF SHOPS AND OFFICES.

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

Exemptions.

Extra-time book.

Sanitary rules.

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

In food and clothing shops.

29. (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 same to the District Health Officer appointed under "The Public Health Act, 1900."

(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 a medical authority.

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

(4.) If that person does any work in or about that shop after service of the said notice upon him without first obtaining the said

certificate, he shall be liable to a fine not exceeding two pounds for every day on which he works in breach of this section.

(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.

30. 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:—

Proceedings under
other Acts.

(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, 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.

31. 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.

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

(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.

Occupier to comply with rules and requisitions.

32. 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
 (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.

Forgery and false entries.

33. 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 authorised to give or issue under this Act ; or
 (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
 (d.) Wilfully makes any false entry in any register, record, notice, or book required or authorised 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.

Employment of assistant after prescribed time.

34. If any shop-assistant or office-assistant is employed at any work in connection with the business of any shop or office later than half an hour after the prescribed time of closing, the employer commits an offence in respect of each shop-assistant or office-assistant so employed.

Evidence of employment.

35. 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.

Where no specific fine imposed.

36. 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.

37. All proceedings in respect of offences against this Act shall be taken in a summary way on the information or complaint of an Inspector, and shall be heard before a Magistrate alone.

Proceedings to be before Magistrate alone.

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

Liability of other person in fault.

(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.

(b.) If the charges are heard together, and the offence is proved, but the occupier satisfies the Magistrate that it was in fact committed by the said other person without the knowledge, consent, or connivance of the occupier, and, further, that the occupier had done all that could reasonably be expected of him to prevent the offence, then the said other person shall be deemed to be liable, and shall be convicted, and not the occupier.

(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.

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

Magistrate may order work to be done.

(a.) The Magistrate, in addition 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.

Proceedings by
Inspector.

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

(a.) The proceedings shall be commenced within one month after the offence was committed if the maximum fine does not exceed ten pounds, and within three months thereafter in any other case:

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.

(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.

(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.

(h.) The Inspector, and every other person who may be dissatisfied with the judgment of the Court on any summary proceedings under this Act, may appeal to the Supreme Court, or to a District Court, in the manner provided by "The Justices of the Peace Act, 1882."

Liability to fine
does not relieve
from payment of
wages.

41. 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.

MISCELLANEOUS.

Inspector to see
Act carried out.

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

Inspectors' powers.

43. (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 :

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, and those referred to in subsections two and three of section twenty-seven of this Act.

(2.) Every occupier of a shop or office who refuses to allow such entry or inspection is liable to a fine not exceeding five pounds.

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

45. All fees and fines received under this Act shall be paid into the Public Account, and form part of the Consolidated Fund. Fees payable to Public Account.

46. 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.

47. Nothing in this Act shall render the occupier of any shop liable to any penalty in respect of the employment during the hours when the shop is required to be closed of any shop-assistant in feeding and tending horses used in the business of the occupier. Exception as to tending horses.

48. The Acts specified in the Schedule hereto are hereby repealed: Provided that every closing-day appointed for shops under the repealed Acts, and subsisting at the time of the repeal, shall continue until statutory closing-days are duly appointed under this Act. Repeals.

SCHEDULE.

Schedule

- 1894, No. 32.—“ The Shops and Shop-assistants Act, 1894.”
 1895, No. 59.—“ The Shops and Shop-assistants Act Amendment Act, 1895.”
 1896, No. 33.—“ The Shops and Shop-assistants Act Amendment Act, 1896.”
 1901, No. 24.—“ The Shops and Shop-assistants Acts Amendment Act, 1901.”