

New Zealand.



ANALYSIS.

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| <p>Title.</p> <p>1 Short Title</p> <p>2 Interpretation.</p> <p style="text-align: center;"><i>Shops.</i></p> <p style="text-align: center;"><i>Hours of Employment, &c.</i></p> <p>3 Limit of employment of shop-assistants.</p> <p>4 Hour of commencement of employment.</p> <p>5 Employment of assistant after hours specified.</p> <p>6 Exception as to tending horses</p> <p>7 Hours of employment.</p> <p>8 Extension of hours.</p> <p>9 Special provision as to hours of employment.</p> <p style="text-align: center;"><i>Special Provisions as to Women.</i></p> <p>10. Sitting-accommodation for women.</p> <p style="text-align: center;"><i>Payment of Wages.</i></p> <p>11. Wages must be paid.</p> <p style="text-align: center;"><i>Wages and Time Book.</i></p> <p>12. Wages and time book.</p> <p style="text-align: center;"><i>Weekly Half-holiday, and Closing of Shops.</i></p> <p>13. "Separate district." "Combined district." Neighbouring district may become part of combined district. Alterations of districts. New districts.</p> <p>14. Shops to close on statutory closing-day.</p> <p>15. Appointment of statutory closing-day in separate districts.</p> <p>16. In combined districts.</p> <p>17. Proceedings of conference.</p> <p>18. When Minister may appoint statutory closing-day.</p> <p>19. Notice of statutory closing-day to be gazetted.</p> <p>20. Poll of electors to determine statutory closing-day.</p> <p>21. Excepted shops.</p> <p>22. Holiday-book and change of half-holiday.</p> <p>23. Equivalent time for half-holidays</p> <p>24. Perishable goods sold by auction.</p> <p>25. Shops in holiday resorts.</p> <p>26. Special holidays.</p> <p>27. Wages to be paid for holiday.</p> <p>28. When shop deemed not to be closed.</p> <p>29. In case of shop and factory or office combined.</p> <p>30. In case of separate classes of shops combined.</p> <p>31. Hours of closing of shops in districts specified in Second Schedule hereto.</p> | <p style="text-align: right;"><i>Closing by Requisition.</i></p> <p>32. Fixing closing-hours of shops.</p> <p>33 Sale of goods after hours</p> <p>34 Powers of Inspector.</p> <p style="text-align: center;"><i>Special Provisions as to Chemists.</i></p> <p>35. Requisition as to chemists' shops Supply of medicines or surgical appliances urgently required</p> <p style="text-align: center;"><i>As to Hawkers.</i></p> <p>36. Hawkers deemed to be "occupiers"</p> <p style="text-align: center;"><i>Hotels and Restaurants.</i></p> <p>37. Certain provisions of Act not to apply.</p> <p>38. Hours of employment.</p> <p>39. Assistants employed partly in a restaurant and partly in a shop.</p> <p>40. Restriction of the hours of employment of women and girls in restaurants.</p> <p>41. Night-porters and night-watchmen.</p> <p>42. Accumulated holidays.</p> <p>43 Alternative provision as to half-holidays in hotels.</p> <p>44. Holiday-book to be kept.</p> <p>45. Whole holiday to assistants in hotels or restaurants may be provided for in award or industrial agreement.</p> <p style="text-align: center;">OFFICES.</p> <p style="text-align: center;"><i>Closing-hour for Offices.</i></p> <p>46. Office hours.</p> <p>47. Provision for closing on statutory closing-day.</p> <p>48. Wages to be paid for half-holiday and holiday.</p> <p style="text-align: center;"><i>Employment of Office-assistants.</i></p> <p>49. Employment after office hours.</p> <p style="text-align: center;">GENERAL AS TO SHOPS AND OFFICES.</p> <p style="text-align: center;"><i>Sanitation and Precautionary Rules in Shops and Offices.</i></p> <p>50 Sanitary rules.</p> <p>51. Health of assistants in shops and offices.</p> <p>52. Proceedings under other Acts.</p> <p>53. Inspector's requisitions.</p> <p style="text-align: center;"><i>Exemptions</i></p> <p>54. Exemption of bazaars and sales for religious and other purposes.</p> |
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<i>Offences and Procedure.</i>	<i>Miscellaneous.</i>
55. Occupier to comply with rules and requisitions.	66. Inspector's powers.
56. Forgery and false entries.	67. Regulations.
57. Shop-assistants liable for breach.	68. Fees and fines payable to Public Account.
58. Evidence of employment.	69. Definition of powers of Court of Arbitration with respect to shops
59. Where no specific fine imposed.	70. Exemption where child of occupier of shop is employed.
60. Proceedings to be before Magistrate alone.	71. Commercial travellers excepted from Act.
61. Magistrate may order work to be done.	72. Sale of motor-spirits, &c
62. Proceedings by Inspector.	
63. Right of appeal.	<i>Repeals and Savings.</i>
64. Liability to penalty does not relieve [from payment of wages.	73. Repeals and savings.
65. Onus of showing person engaged in shop not an assistant on occupier.	Schedules.

1921-22, No. 46.

Title. — AN ACT to consolidate and amend certain Enactments of the General Assembly relating to Shops and Offices. [6th February, 1922.]

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

Short Title. 1. This Act may be cited as the Shops and Offices Act, 1921-22, and shall come into force on the first day of April, nineteen hundred and twenty-two.

Interpretation. 2. (1.) In this Act, if not inconsistent with the context,—
 1908, No. 179, secs. 2, 3 (5)
 1910, No 61, secs 2, 3, Schedule.

“ Award ” means an award of the Court of Arbitration :
 “ Borough ” includes city :
 “ Hotel ” means any premises in respect of which a publican’s license is granted under the Licensing Act, 1908 :
 “ Industrial agreement ” means an industrial agreement filed under the Industrial Conciliation and Arbitration Act, 1908 :
 “ Inspector ” means an Inspector of Factories appointed under the Factories Act, 1908 :
 “ Magistrate ” means a Stipendiary Magistrate, and “ Court ” means a Court presided over by a Magistrate :
 “ 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 this Act or by regulations made under this Act :

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

“ Restaurant ” means any building or place other than an 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—

(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 three or more persons are usually employed other than members of the family of the occupier. For the purposes of this definition the sale of tobacco, cigars, and cigarettes 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 such building or place is used for any such business such part alone constitutes the restaurant.

“ 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 ; the expression includes an hotel, a restaurant, a hairdressing-saloon, and an auction-mart, but does not include—

(a.) A private dwelling in which the household effects of the owner 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 building or place in which is carried on exclusively the business of selling goods to persons who are dealers therein and who buy to sell again ; or

(d.) Any private hotel or boardinghouse in which less than three persons are usually employed other than members of the family of the occupier.

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

(a.) Apprentices and improvers ;

(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 ; and

(c.) Any child of the occupier who is engaged in the business of the shop, whether he is working for hire or reward or not.

The expression includes assistants in hotels or restaurants, but does not include engineers, electricians, and clerks employed in hotels.

The expression “ assistant ” shall have the same meaning as shop-assistant, unless it appears that some other meaning is intended.

1908, No. 179, sec. 18

- “ Week ” means the period from midnight on Saturday up to and including midnight on the following Saturday :
- “ Working-day ” means any day in the week except Sunday.
- (2.) In this Act, if not inconsistent with the context,—
- “ Baker ” means a person whose business is to sell bread, cakes, or pastry, or other goods of a like nature :
- “ Butcher ” means a person whose business is to sell fresh, cooked, or preserved meat, pork, small goods, pickles, or sauces, and whose principal business is the sale of beef or mutton :
- “ 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 the sale of medicines, surgical appliances, or herbal remedies :
- “ Confectioner ” means a person whose business is to sell confectionery or sweetmeats :
- “ Dairy-produce seller ” means a person whose business is to sell fresh or preserved milk, cream, eggs, butter, or cheese :
- “ Fishmonger ” means a person whose business is to sell fresh or cooked fish (other than tinned fish), smoked fish, shell-fish, crayfish, poultry, rabbits, mutton-birds, or other perishable goods of a like nature :
- “ Florist ” means a person whose business is to sell flowers, seeds, plants, pot-plants, flower-pots, or small gardening tools not exceeding five shillings in price, and whose principal business is the sale of flowers or pot-plants :
- “ Fruiterer ” means a person whose business is to sell fresh or preserved fruit (other than jam) or vegetables :
- “ Hairdresser ” means a person whose business is to carry on hairdressing or shaving or to sell toilet requisites, and whose principal business is hairdressing or shaving :
- “ Newsagent ” means a person whose business is to sell newspapers or periodicals published at not more than monthly intervals :
- “ Pork-butcher ” means a person whose business is to sell fresh, cooked, or preserved meat, pork, small goods, pickles, or sauces, and whose principal business is the sale of pork, cooked meat, or small goods :
- “ Tobacconist ” means a person whose business is to sell smoking or toilet requisites or walking-sticks, and whose principal business is the sale of smoking requisites.

SHOPS.

Hours of Employment, &c.

3. (1.) Subject to the provisions of this Act, a shop-assistant shall not be employed—

- (a.) In connection with the business of any shop in which any one of the trades or businesses mentioned in the First Schedule hereto is exclusively carried on after the hour set opposite to such trade or business in the said Schedule :

Limit of
employment of
shop-assistants.

Ibid, sec. 3
1910, No. 61,
Schedule
1920, No. 67, sec. 2

- (b.) In connection with the business of any shop in which any two or more of the trades or businesses mentioned in the First Schedule hereto are exclusively carried on after the earliest hour set out in such Schedule opposite any of the trades or businesses so carried on :
- (c.) In connection with the business of any other shop if situate within a combined district, or a borough not forming part of a combined district and having a population of five thousand or upwards, after one o'clock in the afternoon of the statutory closing-day, or nine o'clock in the evening on one working-day in each week, or six o'clock in the evening on any other working-day :
- (d.) In connection with the business of any other shop if situate within a borough not included in paragraph (c) hereof after one o'clock in the afternoon of the statutory closing-day, or nine o'clock in the evening of one working-day in each week, or seven o'clock in the evening on any other working-day :
- (e.) In connection with the business of any shop not included in the foregoing paragraphs after one o'clock in the afternoon of the statutory closing-day, or after the hours on other working-days at which the shop is usually closed.

(2.) Notwithstanding anything to the contrary in this Act, or in any notice issued pursuant to section thirty-two hereof, but subject to any award or industrial agreement, any shop-assistant may be employed on such one of the six working-days immediately preceding Christmas Day and on such one working-day between Christmas Day and New Year's Day as the occupier may determine as if the references to nine o'clock in the last preceding subsection and in the First Schedule hereto were references to ten o'clock, and the occupier may keep his shop open accordingly :

Provided that this subsection shall not be so construed as to authorize the employment of shop-assistants in contravention of section seven of this Act or of any award or industrial agreement fixing the number of hours of employment of shop-assistants, nor so as to authorize the occupier to keep his shop open on the day observed as the statutory closing-day.

(3.) Notwithstanding anything contained in this Act, no boy under the age of eighteen years and no female shall in any circumstances be employed in connection with the business of a shop after the hour of half past nine o'clock in the evening, except on Christmas Eve and New Year's Eve.

4. No shop-assistant shall be employed in connection with the business of any shop before the hour of four o'clock in the morning in the case of bakers, butchers, or milkmen, or seven o'clock in the morning in any other case.

5. Except as provided in subsection three of section three hereof, nothing in this Act shall render it unlawful for an occupier of a shop to employ an assistant in connection with the business of the shop for not more than fifteen minutes after the time specified in the said section for the sole purpose of completing any work commenced prior to such time :

Provided that any such extra time worked shall be deemed to be time worked within the meaning of section seven hereof.

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

Employment of assistant after hours specified.

Exception as to
tending horses.
1908, No. 179, sec. 50
1910, No. 61,
Schedule

6. Nothing in this Act shall render the occupier of any shop liable to any penalty in respect of the employment of any shop-assistant in feeding and tending horses used in the business of the occupier beyond the hours of employment provided by this Act, but not exceeding one hour a day.

Hours of
employment.
1908, No. 179, sec. 6
1920, No. 67, sec. 3

7. (1.) A shop-assistant shall not be employed in connection with the business of the shop—

- (a.) For more than forty-eight 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 twenty-one hereof) be the day on which the shop is required to be closed for such half-holiday 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 Court of Arbitration 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 in ordinary circumstances exceed the hours limited by paragraph (a) of the last preceding subsection by more than three hours in any one week.

Extension of hours.
1908, No. 179, sec. 6
1920, No. 67, sec. 4

8. The times or working-hours set out in section three and section seven hereof may, except as provided in subsection three of section three, be extended for the purposes of stocktaking or other special work, not being the actual sale of goods, but not for more than three hours in any one day, or one hundred and twenty hours in any one year, and not on any half-holiday. Written notice of any extended time so worked shall be given to the Inspector within twenty-four hours thereafter :

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 extended hours shall be paid therefor at half as much again as the ordinary rate, but the overtime rate shall not be less than ninepence an hour for those assistants whose ordinary wages do not exceed fifteen shillings a week, nor less than one shilling an hour for all other assistants so employed, and shall be paid at the first regular pay-day thereafter, and shall, in addition to any payment for overtime, be paid an allowance of one shilling and sixpence for a meal on every day on which he is employed during such extended hours :

Provided further that it shall not be obligatory on an employer to pay the overtime rate to any shop-assistant employed as the head of a department of the shop and regularly in charge of three or more assistants.

9. 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 provision
as to hours of
employment.

1908, No. 179, sec. 7

- (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.

Special Provisions as to Women.

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

Sitting-
accommodation
for women.

1913, No. 74, sec. 10

- (a.) Reasonable and convenient sitting-accommodation, to the satisfaction of the Inspector, shall at all times be provided for each such assistant employed in the shop ;
- (b.) Such assistants shall be allowed to avail themselves of such accommodation at reasonable intervals throughout the day ;
and
- (c.) No such assistant shall be dismissed, nor shall her wages be reduced, by reason merely that she has availed herself of the sitting-accommodation, unless the occupier proves that she has done so to an unreasonable extent.

Payment of Wages.

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

Wages must be paid.
1908, No. 179, sec. 9
1910, No. 61,
Schedule

- (a.) Every shop-assistant who is employed in any capacity in a shop shall be entitled to receive from the occupier payment for the work at such rate as is agreed upon, being not less than ten shillings in any one week, with annual increments of five shillings a week until a wage of thirty shillings a week is reached, and thereafter not less than thirty shillings a week.
- (b.) Such rate of payment shall in every case be irrespective of overtime.
- (c.) Payment shall be made in full at such intervals as are agreed on, but in no case longer than fortnightly intervals :

Provided that, notwithstanding anything contained in this Act or in the Wages Protection and Contractors' Liens Act, 1908, the occupier may retain in each case three days' wages until the next day on which wages are usually payable.

- (d.) If the occupier makes default 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 paragraph 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.

Wages and Time Book.

Wages and time
book.
1910, No. 61, sec. 12

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

- (a.) The name of the assistant, together with his age if under twenty-one years of age;
- (b.) The kind of work on which he is usually employed;
- (c.) The hours during which he has actually been employed on each day;
- (d.) The wages paid on each pay-day and the date thereof; and
- (e.) Such other particulars as are prescribed by regulations.

(2.) The entry of the particulars hereinbefore referred to, or a memorandum in writing containing such particulars, shall be signed by the assistant at the time of the payment of his wages, and such signature shall operate as a receipt for such payment, and also as a *prima facie* certificate of the correctness of the particulars entered with respect to that assistant.

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

(4.) Every assistant who fails to sign the record as provided in this section, or who wilfully signs an incorrect record, is liable to a fine not exceeding five pounds.

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

Weekly Half-holiday, and Closing of Shops.

13. (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 a road district or town district, shall, for the purposes of this Act, be deemed to be a "separate district."

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

(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."

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

(3.) On the application of the local authority of any other district that is within one mile of any part of a combined district the Governor-General may, by Order in Council gazetted, declare that such district shall, as from a date to be named in the Order, form part of such combined district, and such Order shall have effect according to the tenor thereof.

Neighbouring district may become part of combined district.

(4.) Notice of such application shall be given by advertisement in some newspaper circulating in the district.

(5.) If within one month after such advertisement a petition is presented to the Governor-General by any constituent local authority within the combined district, praying that such Order in Council be not made, then the application shall be refused.

(6.) The Minister may, 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.

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

Alterations of districts.

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

New districts.

1910, No. 61, sec. 14

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

(10.) Where an alteration of the boundaries of any borough or town district has the effect of making that district a portion of an existing combined district, the statutory closing-day appointed for the combined district at the time of such alteration shall, until altered in accordance with this Act, be observed in the combined district as enlarged.

Shops to close on statutory closing-day.

1908, No. 179, sec. 11
1910, No. 61,
Schedule

14. (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.

(2.) Such day (hereinafter called 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 notice in writing of his desire so to do.

Appointment of statutory closing-day in separate districts.

1908, No. 179, sec. 12

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

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

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

(c.) The Mayor or Chairman shall forthwith notify to the Minister the day so decided on, and the Minister shall thereupon, by notice in the *Gazette* as soon as practicable thereafter, appoint that day to be the statutory closing-day in the separate district.

In combined districts.

Ibid., sec. 13

16. 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* as soon as practicable thereafter, appoint that day to be the statutory closing-day in the combined district.

Proceedings of conference.

Ibid., sec. 14

17. 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.

18. 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 fifteenth day of February in any year, been duly notified as aforesaid of the day decided on, he shall himself, by notice in the *Gazette* as soon as practicable thereafter, appoint as the statutory closing-day in that district such working-day as he thinks fit.

When Minister may appoint statutory closing-day.
1908, No. 179, sec. 15

19. (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 the month next following the appearance of the *Gazette* notice appointing the same, or on and from such other date as may be fixed in the said notice, and shall so continue until altered by a like notice under this Act.

Notice of statutory closing-day to be gazetted.
Ibid., sec. 16

(2.) 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.

20. (1.) If at any time, in the case of any separate district which is a borough or town district, or in the case of any combined district, a requisition that the statutory closing-day in that district shall be determined by a poll of the electors is presented in accordance with this section, then, notwithstanding anything to the contrary in this Act, the statutory closing-day in that district shall be determined accordingly in manner hereinafter in this section provided.

Poll of electors to determine statutory closing-day.
Ibid., sec. 17

(2.) Every such requisition shall be signed by not less than one-tenth of the total number of electors of the borough or town district in the case of a separate district, or by not less than one-tenth of the total number of the electors of all the constituent boroughs and town districts in the case of a combined district.

(3.) Every such requisition shall be presented to the local authority in the case of a separate district, and to the convening local authority in the case of a combined district.

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

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

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

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

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

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

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

1920, No. 67, sec. 5

(11.) From a date to be fixed by the Minister in the notice of appointment aforesaid, being not later than three months after the gazetting of any such appointment, the day so appointed shall be the statutory closing-day for the district in respect of which such appointment is made, and shall continue to be the statutory closing-day for that district until another day is appointed in accordance with the foregoing provisions of this section.

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

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

Excepted shops.
1908, No. 179, sec. 18
1910, No. 61,
Schedule
1913, No. 74, sec 3

- (a.) In the case of any shop wherein is exclusively carried on any one or more of the businesses of a fishmonger, a fruiterer, a confectioner, a florist, a dairy-produce seller, a newsagent, 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 paragraph shall not affect the right of any shop-assistant employed in any such excepted shop to a half-holiday for the remainder of the day from one o'clock in the afternoon of such working-day in each week as the occupier, in the case of each individual shop-assistant, thinks fit.

- (b.) In the case of any shop wherein is exclusively carried on any one or more of the businesses of a butcher, a pork-butcher, a hairdresser, a tobacconist, or a photographer, or any one or more of such businesses in conjunction with any one or more of the businesses mentioned in the last preceding paragraph, the occupier may, in the event of Saturday being appointed as the statutory closing-day in the district, close his shop and give the half-holiday to his assistants at the hour of one o'clock in the afternoon on such other working-day as he thinks fit:

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

- (c.) If the occupier of any shop is convicted twice within a period of twenty-four consecutive months of a breach of section fourteen of this Act, the Court in which he is convicted on the second occasion may order that he shall not be entitled to take advantage of the provisions of paragraph (a) or paragraph (b) of this section for a period of twelve months from the date of his conviction on the second such offence, notwithstanding that during that period the said paragraphs would otherwise apply to that shop.

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

(i.) In the case of a shop situate at any seaport other than Auckland, Wellington, Lyttelton, and Port Chalmers, and reopened as aforesaid solely for the purpose of selling goods to any ship or vessel arriving at or leaving the port on that day, or to members of the crew thereof, provided that the shop is again closed immediately on the conclusion of any such sale; and

(ii.) In the case of a shop in which the business carried on is the sale of machinery and parts and fittings of machinery and appliances and requisites for harvesting purposes, and which is reopened as aforesaid for the sole purpose of selling such things during the time of harvest,

provided that the shop is again closed immediately on the conclusion of any such sale; and

(iii.) 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 where such shop is the only shop in the locality within a radius of three miles such shop may be kept open for ordinary business.

(e.) Notwithstanding anything hereinbefore contained, a chemist may keep his shop open and employ his assistants (but only for the supply of medicines and surgical appliances) between the hours of seven and nine o'clock in the evening on the statutory closing-day.

Holiday-book and change of half-holiday.

22. (1.) The occupier of any shop to which paragraph (a) or paragraph (b) of the last preceding section applies shall, except in exceptional circumstances previously approved by the Inspector, give seven days' notice in writing to each assistant of any change in the day fixed by the occupier for that assistant's half-holiday.

(2.) In every such shop the occupier shall at all times keep in a book approved by the Inspector a record of the working-day fixed and observed as the half-holiday of each assistant, and such book shall at all times be open to inspection by the Inspector or by any assistant employed by the occupier.

Equivalent time for half-holidays.

23. In any case where an assistant is employed at any time on the half-holiday pursuant to paragraph (d) or paragraph (e) of section twenty-one hereof, such assistant shall be given double time off within seven days thereafter.

Perishable goods sold by auction.

24. (1.) The occupier of any shop (other than a shop to which paragraph (a) of section twenty-one applies) in which the principal business carried on is the sale by auction to consumers of fish, fruit, vegetables, meat, or other perishable goods of a like nature, may, on obtaining a permit from the Inspector, keep his shop open and employ his assistants on the statutory closing-day for the sale of such goods only.

(2.) The Inspector may grant such permit only if he is satisfied that it is necessary so to do in order to prevent any such goods from deteriorating.

(3.) Every assistant employed on the statutory closing-day in accordance with this section shall be paid for all time so worked at not less than one-half as much again as the ordinary rate, and shall be given equivalent time off within seven days thereafter.

Shops in holiday resorts.

25. (1.) Notwithstanding anything contained in this Act, but subject to any award or industrial agreement, the occupier of any shop situated at a holiday resort may, if the statutory closing-day in such holiday resort is Saturday, apply in writing to the Inspector for permission to observe some other specified day as the statutory closing-day.

(2.) The Inspector may thereupon, taking into consideration the interests of other shopkeepers and of the public, either grant or refuse such permission.

(3.) Should such permission be granted by the Inspector, the occupier may observe the day specified as the statutory closing-day in

all respects as if that day were the day appointed in accordance with the preceding provisions of this Act.

26. (1.) For the purposes of this section the term "special day" means any of the days following, namely: 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-General, or Act of Parliament, 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.

Special holidays.
1908, No. 179, sec. 19
1920, No. 67, sec. 6

(2.) Notwithstanding anything contained in this Act, but subject to any award or industrial agreement, where any such special day is generally observed on a Monday the occupier of a shop that is closed for the whole of that day and that is usually closed for the half-holiday on Saturday may keep his shop open and employ his assistants on the Saturday next preceding such holiday, provided that he observes some other day in that week as the statutory closing-day, and that he has previously notified the Inspector of the day that he intends to observe.

(3.) Where in any week a shop is closed and no assistants are employed during the whole of any two days other than the day observed as the statutory closing-day, this shall be deemed to be a sufficient compliance for that week with the requirements of this Act relating to the weekly half-holiday.

27. No deduction shall be made from the wages of any assistant for any holiday mentioned in the last preceding section.

Wages to be paid for holiday.

28. (1.) 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 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 such entrance is closed but not locked.

Cf. 1908, No. 179, sec. 22

When shop deemed not to be closed.
1908, No. 179, sec. 20

(2.) 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.

29. (1.) Where a person is employed by the same employer in more than one of the establishments of a shop, an office, or a factory, such person shall be deemed for the purposes of this Act and of the Factories Act, 1908, to be exclusively employed in that establishment in which he is chiefly employed.

In case of shop and factory or office combined.

(2.) Any question as to which establishment such person is chiefly employed in shall be determined by the Inspector, whose decision thereon shall be final and conclusive.

30. Where the occupier of a shop conducts two classes of business to which different provisions of this Act apply, in one premises or in premises adjacent to one another, such businesses shall be deemed to be carried on in one shop, except where there is a separate entrance for each such class of business leading directly from a public thoroughfare.

In case of separate classes of shops combined.

31. (1.) In the districts specified in the Second Schedule hereto all shops (other than those in which any one or more of the trades or businesses specified in the First Schedule are exclusively carried on) shall be closed from the hour of six o'clock in the evening on four working-days of the week other than the day of the statutory

Hours of closing of shops in districts specified in Second Schedule hereto.

1920, No. 67, sec. 11
1921, No. 3, sec. 2

half-holiday, and not later than nine o'clock in the evening on one other working-day of the week. Such last-mentioned day shall be Friday in the case of all occupiers who observe Saturday as the statutory half-holiday, and in all other cases shall be Saturday.

(2.) In the event of any such district that is a separate district becoming portion of a combined district, this section shall apply to the whole of that combined district instead of to such separate district.

(3.) When in any week a shop is closed and no assistants are employed during the whole of the day on which that shop may be kept open until nine o'clock in the evening pursuant to subsection one of this section, the shop may be kept open and the assistants may be employed till nine o'clock in the evening on such other night in the week as the occupier may think fit, provided that previous notice in writing of such change has been given to the Inspector.

(4.) Notwithstanding the provisions of subsection one of this section, a Magistrate shall have jurisdiction, on application by the occupier of any shop to which this section applies and in which no shop-assistant other than a member of the occupier's family is employed, to exempt that shop from the operation of this section, if the Magistrate is of opinion that the observance of the closing-hours fixed by this section would cause undue hardship to the occupier; and provided also that a Magistrate shall have a similar jurisdiction, on application by the occupier of any shop to which this section applies, and in which not more than one shop-assistant other than a member of the occupier's family is employed, if the Magistrate is satisfied that it is impracticable by reason of ill health or other disability for the occupier or a member of his family to conduct the business.

(5.) Nothing herein shall authorize the occupier of any shop to keep his shop open after the hour fixed for the closing thereof by any notice under section thirty-two hereof or by any award of the Court of Arbitration.

Closing by Requisition.

Fixing closing-hours
of shops.

1908, No. 179, sec. 25

1910, No. 61,

Schedule

1913, No. 74, sec. 4

1918, No. 10, sec. 41

1920, No. 67, sec. 7

32. (1.) On the requisition in writing of a majority of the occupiers of all the shops in the district of any local authority desiring that all the shops therein shall be closed in the evening (being the time of the day not earlier than five o'clock in the afternoon) of any or every working day or days at the hour or hours specified in the requisition, the Minister, if the intention of the signatories is clearly specified and is not contrary to this Act, shall, by notice in the *Gazette*, direct that from and after a day therein mentioned all shops in the district shall be closed for the remainder of the day 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:

Provided that no requisition shall be acted on by the Minister unless he is satisfied that the signatures to the requisition represent a majority of the occupiers of all the shops within the district.

(2.) A requisition may be limited to any particular trade within the district, and in such case the provisions of the last preceding subsection shall, with the necessary modifications, apply to such limited requisition. Such requisition shall operate with respect to such trade notwithstanding any requisition in force applying to all shops within

the district; and, while a notice in pursuance of this subsection is in force, no notice shall be gazetted in the same district in pursuance of the last preceding subsection.

(3.) A requisition may, in the case of occupiers of shops who are entitled pursuant to the provisions of this Act to observe as the statutory closing-day either the day appointed or some other day of the week, specify different but equivalent hours of closing for different occupiers having regard to the days observed by such occupiers respectively for the weekly half-holiday, and the Minister shall by notice in the *Gazette* direct accordingly.

(4.) For the purposes of this Act a shopkeeper shall be deemed to be engaged in the particular trade which comprises his principal business, and the principal business of any shop shall be determined according to the value of the turnover.

(5.) For the purposes of this Act the Governor-General may, by Order in Council, declare the goods the sale of which shall be deemed to be comprised in any particular trade, and may group any two or more trades that are commonly carried on together, and thereupon such trades shall be deemed to be one trade.

(6.) Nothing in this section shall be construed as permitting any shop to remain open on any statutory closing-day after the prescribed time of closing.

(7.) Except for the purposes of remedying an error or giving fuller effect to the intention of a requisition, no notice published by the Minister in pursuance of this section shall be cancelled or varied until the expiration of six months from the date of its publication in the *Gazette*.

(8.) For the purposes of the last preceding subsection a notice under subsection two of this section shall not be deemed to vary or cancel a notice under subsection one hereof.

(9.) Where the statutory closing-day in any district has been altered pursuant to this Act the Minister may, by notice in the *Gazette*, adjust any requisition applying to such district fixing equivalent hours for closing.

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

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

(12.) Nothing in this section shall entitle the occupier of a shop to employ his assistants beyond the hours or times provided for such assistants under this Act.

(13.) For the purposes of subsection one of this section the term "occupier" includes only such occupiers as are British subjects, whether by naturalization or otherwise.

33. (1.) A majority of the occupiers of all the shops in any particular trade within the district of any local authority may at any time, by petition in writing, apply to the Minister to prohibit the sale in such district of all the goods the sale of which is comprised in such trade during such time as the shops in such trade are required to be closed in pursuance of this Act, or of any award.

Sale of goods after hours.

(2.) The Minister may thereupon, having regard to the interests of all the shopkeepers concerned and of the public in the locality, by notice in the *Gazette*, specify the goods the sale of which he deems to be comprised in such trade, and prohibit the sale of such goods in the said district during such times to be specified in the notice as the shops in such trade are required to be closed as aforesaid :

Provided that no petition shall be acted on by the Minister unless he is satisfied that the signatures to the petition represent a majority of the occupiers of all the shops in that trade within the district.

(3.) From and after the date of the gazetting of such notice the sale of any such goods during the times specified shall be an offence.

(4.) Such notice shall remain in force until cancelled or altered by a similar notice.

(5.) The Minister may cancel any such notice at any time, and shall cancel such notice on receipt of a petition to that effect prepared in accordance with subsection one of this section.

(6.) Nothing in this section shall render it unlawful for the occupier of an hotel, a private hotel, or a boardinghouse to sell or deliver tobacco, cigars, or cigarettes to *bona fide* lodgers in such hotel, private hotel, or boardinghouse.

(7.) For the purpose of giving effect to this section an Inspector may, if he thinks fit, require the occupier of any shop to keep posted up in a conspicuous place where it may be easily read by customers and assistants a notice that the sale of the goods specified in such notice is prohibited during the times specified therein.

Powers of Inspector.

34. The Inspector may require the occupier of any shop to make a statutory declaration as to the principal business carried on in such shop, or as to all or any goods sold in such shop, or may require such occupier to furnish the Inspector with such other evidence as he may possess respecting such matters.

Special Provisions as to Chemists.

Requisition as to
chemists' shops.
1908, No. 179, secs. 3
and 18
1915, No. 84, sec. 3
1917, No. 20, sec. 3

35. (1.) A requisition under section thirty-two hereof may, in so far as it relates to the closing-hours of chemists' shops, provide for the exemption therefrom of any specified shop or shops for the purpose only of the sale of medicines and surgical appliances that are urgently required, and in such case the provisions of subsection four of this section shall not apply to any chemist's shop in the district which is within such distance as may be set out in the requisition (not in any case exceeding two miles and a half) of any such exempted shop by the nearest route as determined by the Inspector :

Provided that the Minister shall not direct that any shop shall be so exempted unless he is satisfied that all the occupiers of the shops affected by this subsection have been afforded an equal right to share at a reasonable cost in the profits of the business carried on by such specified shop.

(2.) In any district where a requisition relating to the closing-hours of chemists' shops is in force a majority of the occupiers of such shops may, notwithstanding anything in subsection seven of section thirty-two hereof, make a similar requisition providing for the exemption of any specified shop or shops as aforesaid, and thereupon, but subject to the provisions of the last preceding subsection, the requisition then

in force shall be deemed to be modified to the extent provided in such similar requisition.

(3.) The provisions of this Act relating to the closing of shops on the weekly half-holiday shall not apply to any shop exempted under this section.

(4.) Subject to subsection one of this section, it shall not be unlawful for the occupier of any chemist's shop to supply medicines or surgical appliances that are urgently required at any time when chemists' shops in the district are otherwise required to be closed :

Supply of medicines or surgical appliances urgently required.

Provided—

- (a.) That the shop is opened for such purpose only ; and
- (b.) That the shop is closed immediately the sale is effected ; and
- (c.) That the door of the shop is kept locked, except for the admission and exit of the customer.

As to Hawkers.

36. 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 :—

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

- (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 or delivering such goods.

Hotels and Restaurants.

37. Save as otherwise expressly provided, the following provisions of this Act shall not apply to hotels and restaurants or to the assistants employed therein, namely : Sections three, four, five, seven, eight, thirteen to twenty-eight, thirty-one, thirty-two, thirty-five, forty-six to forty-nine, fifty-eight, sixty-nine, and seventy-one.

Certain provisions of Act not to apply.
1910, No. 61, secs. 4 and 5
1920, No. 67, sec. 12

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

Hours of employment.
1910, No. 61, sec. 5
1913, No. 74, sec. 11

- (a.) For more than forty-eight hours (excluding meal-times) in any one week ; nor
- (b.) For more than ten hours (excluding meal-times) in any one day ; nor
- (c.) For more than five hours continuously without an interval of at least half an hour for a meal ; nor
- (d.) At any time after two o'clock in the afternoon of such working-day in each week as the occupier in the case of each assistant thinks fit.

(2.) Such working-hours may be extended, but not for more than three hours in any one day and not for more than one hundred and eighty hours in any one year. Written notice of the extended time worked is to be given to the Inspector within twenty-four hours thereof.

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

(4.) Section nine of this Act shall extend and apply to the limitations imposed by this section.

(5.) The children of the occupier shall not be deemed to be shop-assistants within the meaning of this section.

Assistants employed partly in a restaurant and partly in a shop.

39. An assistant who is employed partly in a restaurant and partly in a shop other than a restaurant (whether in the same premises or not) and whose employment is chiefly in the restaurant shall not be employed in the business of the other shop after the hours limited for the employment of assistants in such other shop.

Restriction of the hours of employment of women and girls in restaurants.

1917, No. 20, sec. 2

Night-porters and night-watchmen.

1910, No. 61, sec. 6

40. No woman or girl shall be employed in or about a restaurant or the business of a restaurant after the hour of half past ten o'clock in the evening of any day.

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

Accumulated holidays.

Ibid., sec. 7

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

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

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

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

(5.) Where any such arrangement is terminated as aforesaid, or where the employment of any such assistant is terminated from any cause, the occupier shall, on such termination, allow to the assistant a holiday on full pay, but without board and lodging, for such period as is equivalent to the half-holidays or whole holidays, as the case may be (if any), to which but for this section he would have been entitled since the expiry of his last preceding leave of absence, or if there has been no such leave of absence, then since the date on which the arrangement came into force.

Alternative provision as to half-holidays in hotels.

Ibid., sec. 8

1913, No. 74, sec. 6

43. In lieu of allowing a half-holiday as provided for in this Act, the occupier of an hotel may, with the previous written consent of the Inspector, require all or any of the assistants to work on the day of the half-holiday :

Provided—

(a.) That the maximum weekly hours provided for in this Act shall not be exceeded :

(b.) That every assistant who works as required on the half-holiday shall be given a whole day's holiday on some working-day in

the week immediately succeeding the week on which the half-holiday was not allowed :

- (c.) That it shall not be lawful for the Inspector to consent to allowing assistants to be worked on the half-holiday for more than six times in any one year, or for more than once in any period of two months of any one year.

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

Holiday-book to be kept.

1910, No. 61, sec. 9
1913, No. 74, sec. 7

(2.) Every assistant who fails to sign the record as provided by this section or who wilfully signs any incorrect record is liable to a fine of one pound.

45. Notwithstanding anything in this Act, provision may be made in any award or industrial agreement relating to assistants employed in hotels or restaurants for a whole holiday of twenty-four hours on any day in each week in lieu of the half-holiday or whole holiday provided for in this Act :

Whole holiday to assistants in hotels or restaurants may be provided for in award or industrial agreement.

Ibid., sec. 8

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

OFFICES.

Closing-hour for Offices.

46. (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 :

Office hours.

1908, No. 179, sec. 27

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 auctioneers, banks, Harbour Boards, insurance companies, wholesale warehousemen, wool-brokers, or wool-buyers.

(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.

47. (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 :

Provision for closing on statutory closing-day.

Ibid., sec. 28

1910, No. 61,
Schedule

Provided that he lodges with the Inspector 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 same 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 and holiday.
1908, No. 179, sec. 29

48. 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 twenty-six hereof, at the first regular pay-day after the half-holiday or holiday.

Employment of Office-assistants.

Employment after office hours.
Ibid., sec. 30

49. (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.

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

(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.

(5.) 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.

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

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

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

Provided also 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.

GENERAL AS TO SHOPS AND OFFICES.

Sanitation and Precautionary Rules in Shops and Offices.

50. For the better sanitation of shops and offices, and for the health and comfort of the workers, the following rules shall at all times be observed :—

Sanitary rules.
1908, No. 179, sec. 31
1913, No. 74, sec. 5

- (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 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 ensure 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.
- (i.) Suitable heating and temperature recording appliances to the satisfaction of the Inspector shall be provided.
- (j.) In cases where sleeping-accommodation is provided by the employer such accommodation shall have sufficient air-space,

and shall be well lighted, and shall also be a sufficient distance away from any privy or other sanitary accommodation, so as to be free from any smell or leakage that may arise therefrom.

Health of assistants
in shops and offices.
1908, No. 179, sec. 32

51. (1.) If any person employed or engaged in or in connection with any shop or office is in a state of health which in the opinion of the Inspector is likely to convey germs of disease or other contamination, the Inspector shall forthwith report the same to a Medical Officer of Health appointed under the Health Act, 1920.

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

(3.) Immediately upon service of such notice the person so employed or engaged shall cease to do any work in that shop or office 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.

(4.) If that person does any work in connection with the business of such shop or office 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, or to imprisonment with hard labour for three months.

(5.) Where notice has been served on an assistant, the Inspector shall, in like manner, serve on the occupier of the shop or office a notice forbidding the employment of that person until he has produced a certificate as hereinbefore required.

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

(7.) If any articles found or used in the shop or office, or in any adjoining premises are, in the opinion of the Inspector, likely to convey germs of disease or other contamination, the Inspector shall forthwith report the case to the Medical Officer of Health appointed under the Health Act, 1920.

Proceedings under
other Acts.
Ibid., sec. 33

52. 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 :—

(a.) He shall give notice of such nuisance or sanitary defect to a Medical Officer of Health or to the local authority within whose district the nuisance or defect exists, and it shall be the duty of that Medical 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 Medical Officer of Health, or any Inspector of Nuisances, surveyor, or other officer of any local authority ;

and every such officer may at all reasonable times enter and inspect any shop or office.

- (c.) If any such officer is obstructed or hindered in the exercise of any of the powers conferred upon him by this section the person obstructing or hindering him commits an offence.

53. 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.
1908, No. 179,
sec. 34

- (a.) The requisition shall be in writing under the hand of the Inspector, and shall be addressed to and served on any one of the occupiers as defined in section two hereof, under his usual business name or style.
- (b.) The requisition may be served either personally or by posting it in a registered letter addressed to the occupier at the shop or office.
- (c.) The requisition, when served as aforesaid, shall bind every person who by section two hereof is included in the definition of "occupier."
- (d.) If the occupier considers the requisition to be unreasonable he may appeal to a 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 a Magistrate at the Courthouse at the time so fixed.
- (g.) On the hearing of the appeal the Magistrate who hears the same may by order confirm, reverse, or modify the requisition as he thinks fit, and the order shall be final and binding on all parties.

Exemptions.

54. 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.

Exemption of
bazaars and sales
for religious and
other purposes.

Offences and Procedure.

55. 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,—

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

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.
1908, No. 179, sec. 36

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

- (a.) Forges, counterfeits, or fraudulently alters any certificate, consent, notice, or other document which an Inspector is authorized to give or issue under this Act; or
- (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 authorized under this Act; or
- (e.) Gives, or issues, or uses, any certificate, consent, notice, or other document under this Act knowing the same to be untrue in any material particular.

Shop-assistants liable for breach.
1920, No. 67, sec. 10

57. Every assistant in a shop or office who is employed in breach of the provisions of this Act, or who causes a breach of this Act to be committed, commits an offence against this Act, and is liable to a fine of five pounds for each such offence.

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

58. 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.
Ibid., sec. 39

59. 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 continuing one, then to a further fine not exceeding five pounds for each day on which the breach continues.

Proceedings to be before Magistrate alone.
Ibid. sec. 40

60. 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, who shall not be called upon to prove that he holds that office, and all such proceedings may be continued and conducted by the same or any other Inspector or any person permitted by the Magistrate to conduct the same, and shall be heard before a Magistrate alone.

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

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

- (a.) The Magistrate, in addition to or in lieu of imposing a fine, may, by order, require the defendant to do any specified work or to adopt any specified means for the purpose of preventing the further non-observance of the rule or requisition, and may specify a time within which the order shall be obeyed.
- (b.) The time so specified may be extended by the Magistrate on the application of the defendant.
- (c.) If the order is made in lieu of imposing a fine, then the Magistrate shall adjourn the proceedings until the expiry of the time specified in the order; and if the order is duly obeyed he may, if he thinks fit, impose no fine in respect of the offence.

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

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

62. With respect to proceedings by an Inspector against any person for any offence arising under this Act, or under any regulation made hereunder, the following provisions shall apply :—

Proceedings by
Inspector.

1908, No. 179,

sec. 43

1920, No. 67, sec. 8

(a.) The proceedings shall be commenced within three months after the date of the commission of the offence :

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 time begin to run until the appeal has been disposed of or has lapsed.

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

(c.) For the purpose 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 the shop or office or the style or title under which the occupier is usually known or carries on business, and the information may be from time to time amended as to the actual name of the defendant at the instance of the Inspector.

(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.

(g.) A defendant may, excepting in proceedings under section fifty-six be called by the Inspector, and shall be compellable to give evidence as a defendant in a civil action is compellable.

(h.) Several charges against the same person may be heard together if the Magistrate shall think fit so to hear them, and charges against several persons may be so heard with the consent of the parties if the Magistrate shall so order, and in all such cases a witness sworn to give evidence respecting one charge, proceeding, or matter shall for all purposes be deemed a witness in each and all such charges, proceedings, or matters.

(i.) In any proceeding by way of information any order which the Court is empowered to make may be made without a complaint being laid.

(j.) The provisions of the foregoing paragraphs, save paragraph (i) hereof, shall, so far as the same are applicable, apply to proceedings by way of complaint.

(k.) 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.

Right of appeal.
1908, No. 179,
sec. 43 (h)

63. The Inspector or the defendant, if dissatisfied with the judgment of the Court on any summary proceeding, may appeal to the Supreme Court in manner provided by the Justices of the Peace Act, 1908.

Liability to penalty does not relieve from payment of wages.

64. 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 to wages or other payments due by him.

Ibid., sec. 44

Onus of showing person engaged in shop not an assistant on occupier.

65. If any person other than the occupier is engaged in any work in connection with the business of a shop or office, it shall lie on the occupier to show that such person is not an assistant in such shop or office.

Miscellaneous.

Inspector's powers.
Ibid., sec. 46

66. (1.) The occupier of a shop or office shall at the request of the Inspector keep posted up any extract or notice specifying any of the requirements of this Act in a conspicuous place in or about such shop or office where it may be easily read by customers and by the assistants employed therein.

(2.) 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 :

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

(4.) 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 or office, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a shop or office, and require such person to make and sign a declaration under the Justices of the Peace Act, 1908, of the matters respecting which he is so examined :

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.

(5.) Every Inspector shall be furnished with a certificate of his appointment in the form prescribed by the Factories Act, 1908, and on applying for admission to a shop or office he shall, if required, produce such certificate to the occupier.

(6.) Every person who forges or counterfeits any such certificate, or makes use of any such forged, counterfeited, or false certificate, or personates the Inspector named in any such certificate, or falsely pretends to be an Inspector, is liable to imprisonment with hard labour for any term not exceeding twelve months.

Regulations.
Ibid., sec. 47

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

Fees and fines payable to Public Account.

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

Ibid., sec. 48

Definition of powers of Court of Arbitration with respect to shops.
1920, No. 67, sec. 9

69. (1.) In any award relating to the employment of shop-assistants the Court of Arbitration may fix the hours of closing on any working-day of all shops in the industry or industries to which the award relates in any industrial district in which the award has effect, or in any specified part of that district, irrespective of whether or not any assistants are employed in those shops :

Provided that the Court may, on application by the occupier of any shop, exempt that shop from the operation of this section if the Court is of opinion that the observance of the closing-hours fixed by the award would cause undue hardship to the occupier.

(2.) In any such award the Court of Arbitration may also fix the maximum weekly or daily number of hours of employment and the times of employment of shop-assistants, the holidays to be observed, and the minimum wages (including rates of payment for overtime) to be paid to shop-assistants :

Provided that in any award under this section the Court shall not—

- (a.) Fix the weekly or daily number of hours of employment of any shop-assistants in excess of the maximum number prescribed by this Act ; or
- (b.) Fix the rates of wages of any shop-assistants (including rates of payment for overtime) at less than the rates fixed by this Act ; or
- (c.) Extend the time of closing or the time at which any shop-assistants shall cease employment on any day beyond the times fixed in that behalf by this Act.

(3.) Where any alteration takes place in the statutory closing-day in any district the Court of Arbitration may, on the application of any party to an award, amend an award accordingly.

(4.) 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 be so construed or shall so operate as to take away or restrict the liability of any person for an offence against the Industrial Conciliation and Arbitration Act, 1908, but no person shall be punished under that Act and this Act for the same offence.

70. (1.) The occupier of a shop who is himself the owner of the business carried on therein may apply to the Inspector for the exemption from all the provisions of this Act relating to shop-assistants of any one of his children (irrespective of age) whose name shall be specified in the application, and the Inspector may thereupon grant such exemption accordingly.

Exemption where child of occupier of shop is employed.

(2.) Any such exemption shall apply only while such child is engaged in the shop, and only if and so long as no assistants other than the said child are employed in the shop.

(3.) Nothing in this section shall entitle any shop to remain open after the hours fixed or in accordance with this Act.

71. Nothing in this Act shall 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.

Commercial travellers excepted from Act.
1908, No. 179, sec. 49

72. (1.) Nothing in the Act shall render it unlawful for the occupier of a shop to sell at any time motor-spirits, petrol, oil, or motor accessories that are urgently required :

Sale of motor-spirits, &c.

Provided—

- (a.) That the shop is opened for such purpose only ; and
- (b.) That the shop is closed immediately the sale is effected ; and
- (c.) That the door of the shop is kept locked, except for the admission and exit of the customer.

Repeals and Savings.

Repeals and savings.
1908, No. 179,
sec. 1 (2)

73. The enactments mentioned in the Third Schedule hereto are hereby repealed, and with respect to those enactments the following provisions shall apply :—

- (a.) All districts, appointments, Orders in Council, regulations, polls, certificates, notices, requisitions, documents, books, records, statutory closing-days, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.
- (c.) Offences against any of the provisions of the repealed Acts shall be deemed to be offences against the corresponding provisions of this Act, and shall be dealt with as if proceedings in respect thereof had been commenced under the said Acts.

SCHEDULES.

FIRST SCHEDULE.

HOURS OF EMPLOYMENT IN CERTAIN TRADES.

Schedules.

Ibid.,
Second Schedule.
1910, No. 61.
Schedule.
1920, No. 67, sec. 11

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

SECOND SCHEDULE.**COMBINED DISTRICTS (AS DEFINED IN SECTION 13).**

AUCKLAND, Christchurch, Dunedin, Gisborne and the Town District of Mangapapa, Invercargill, Nelson, Petone and Lower Hutt, Wanganui, Wellington.

SEPARATE DISTRICTS (AS DEFINED IN SECTION 13).

Hamilton, Hastings, Masterton, Napier, New Plymouth, Palmerston North, Timaru.

THIRD SCHEDULE.**ENACTMENTS REPEALED.**

- 1908, No. 179.—The Shops and Offices Act, 1908.
1910, No. 61.—The Shops and Offices Amendment Act, 1910.
1913, No. 74.—The Shops and Offices Amendment Act, 1913.
1915, No. 84.—The Shops and Offices Amendment Act, 1915.
1917, No. 20.—The Shops and Offices Amendment Act, 1917.
1918, No. 10.—The War Legislation and Statute Law Amendment Act, 1918:
Section 41.
1920, No. 67.—The Shops and Offices Amendment Act, 1920.
1921, No. 3.—The Shops and Offices Amendment Act, 1921.
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