

New Zealand.



ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p style="text-align: center;"><i>Hotels and Restaurants.</i></p> <p>2. Interpretation.</p> <p>3. Hotels and restaurants to be deemed shops.</p> <p>4. Certain provisions of principal Act not to apply.</p> <p>5. Hours of employment.</p> <p>6. Night-porters and night-watchmen.</p> <p>7. Accumulated holidays.</p> <p>8. Alternative provision as to half-holidays in hotels.</p> | <p>9. Notice in respect of holidays and working-hours.</p> <p>10. Licensing Act amended.</p> <p>11. Provisions of awards, &c., to prevail while in force.</p> <p style="text-align: center;"><i>Miscellaneous.</i></p> <p>12. Wages and time book.</p> <p>13. Persons engaged in a shop, other than the registered occupier, deemed to be assistants.</p> <p>14. Alterations of districts. New districts.</p> <p>15. Miscellaneous amendments to principal Act. Schedule.</p> |
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1910, No. 61.

Title.

AN ACT to amend the Shops and Offices Act, 1908.

[3rd December, 1910.]

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 Amendment Act, 1910, and shall form part of and be read together with the Shops and Offices Act, 1908 (hereinafter referred to as the principal Act).

Hotels and Restaurants.

Interpretation.

2. In this Act, if not inconsistent with the context,—

“ Hotel ” means any premises in respect of which a publican’s license is granted under the Licensing Act, 1908; and “ restaurant ” means any premises (other than an hotel) in which meals are provided and sold to the general public for consumption on the premises, and whether or not lodging is provided for hire for the accommodation of persons who desire to lodge therein, and includes a private hotel, a tea-room, and an oyster-saloon.

Hotels and restaurants to be deemed shops.

3. The definitions of “ shop ” and “ shop-assistant ” contained in section two of the principal Act are hereby extended and applied to hotels and restaurants and to the assistants employed therein :

Provided that engineers, electricians, and clerks engaged in hotels shall not be deemed to be shop-assistants.

4. Sections three to six and sections twenty-five, twenty-seven, and thirty-seven of the principal Act shall not apply to hotels and restaurants or to the assistants therein.

Certain provisions of principal Act not to apply.

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

Hours of employment.

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

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

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

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

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

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

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

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

(5.) Sections eleven to twenty and section thirty-eight of the principal Act shall not apply to hotels or restaurants.

(6.) Neither the wife nor the children of the occupier shall be deemed to be shop-assistants within the meaning of this section.

6. 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, in lieu of a weekly half-holiday, shall 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.

Night-porters and night-watchmen.

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

Accumulated holidays.

(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.

8. 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 of Factories for the district, 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 the 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 during the week immediately succeeding the week on which the half-holiday was not allowed:

(c.) That it shall not be lawful for the Inspector of Factories for the district 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.

9. In every hotel and restaurant the occupier shall at all times keep in an approved holiday-book 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.

10. Subsection one of section one hundred and sixty-two of the Licensing Act, 1908, is hereby amended by omitting all the words after the words "as the case may be" down to and including the words "as aforesaid."

11. Notwithstanding anything in this Act, any award of the Court of Arbitration relating to hotels or restaurants in force on the passing of this Act shall continue in force for the period for which it was made as if this Act had not been passed.

Miscellaneous.

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,—

Alternative provision as to half-holidays in hotels.

Notice in respect of holidays and working-hours.

Licensing Act amended.

Provisions of awards, &c., to prevail while in force.

Wages and time book.

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

(2.) The wages and time book shall at all times be open to the inspection of an Inspector.

(3.) 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 by regulations.

13. Every shop shall be registered by the occupier thereof with the Inspector of Factories in the name of one person as occupier, and, except in the case of a husband or wife, as the case may be, any other persons engaged in the business of the shop shall be deemed to be shop-assistants. In order to prevent evasion of this section the name of the occupier shall not be changed except for some sufficient reason to the satisfaction of the Inspector.

Persons engaged in a shop, other than the registered occupier, deemed to be assistants.

14. (1.) 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.

(2.) 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 the principal Act.

New districts.

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

15. The principal Act is hereby amended in the manner and to the extent specified in the Schedule hereto.

Miscellaneous amendments to principal Act.

SCHEDULE.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

No. of Section.	Nature and Extent of Amendment.
Section 3 ...	By omitting the words "and to any award of the Arbitration Court." By omitting the words "(other than a refreshment-room)" in paragraph (a); and omitting the words "section and the Second Schedule hereto" in subsection (5), and substituting the word "Act."
Section 6, (3) ...	By inserting, after the words "special work," the words "not being the actual sale of goods"; inserting, after the words "in any one year," the words "nor on any half-holiday"; and omitting the word "such" in the second proviso.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

No. of Section.	Nature and Extent of Amendment.
Section 6, (4) ...	By repealing this subsection.
Section 9 ...	By inserting, after the word "work" in paragraph (a), the words "at such rate"; and omitting all words of the same paragraph after the words "and so on," and substituting the words "until a wage of twenty shillings a week is reached, and thereafter not less than twenty shillings a week."
Section 11, (2) ...	By omitting the words "during the month of January in each year, or within one month after a shop is first opened for business, as the case may be."
Section 18, (a) ...	By inserting, after the word "fishmonger" where it first occurs, the words "dairy-produce seller"; omitting the words "a refreshment-room keeper," the words "(other than a refreshment-room)," the words "or in the case of a refreshment-room from two o'clock," and the words "a 'refreshment-room keeper' means a person whose business is to sell meals, but does not include an hotel-keeper"; and omitting the words "fish or shell-fish" in the definition of "fishmonger," and substituting the words "fresh fish, smoked fish, shell-fish, poultry, rabbits, mutton-birds, and other perishable goods of a like nature."
Section 18, (b) ...	By omitting the words "during the month of January in each year, or within one month after the shop is first opened for business, as the case may be."
Section 23 ...	By repealing the section.
Section 25 ...	By adding the following subsections:— " (9.) Every notice inserted by the Minister in the <i>Gazette</i> pursuant to this section shall be conclusive evidence of the matters stated therein. " (10.) Nothing in this section shall entitle the occupier of a shop to employ his assistants beyond the hours provided for such assistants under this Act. " (11.) For the purposes of this section an hotel shall not be deemed to be a shop : " Provided that it shall not be lawful for the holder of any publican's license to sell or deliver any tobacco, cigars, or cigarettes at any time while the shops of tobacconists in the same district are closed on any statutory weekly half-holiday except to persons who are <i>bona fide</i> lodgers upon the licensed premises."
Section 28 (1) ...	By omitting the words "during the month of January in each year, or within one month after the office is first opened for business, as the case may be."
Section 37 ...	By omitting the words "of closing."
Section 50 ...	By omitting all words after the word "employment," and substituting the words "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 per day."
Second Schedule	By altering the hour set opposite to the trades or businesses of a dairy-produce seller and a florist, in the second column, from 1 p.m. to 6 p.m. and from 1 p.m. to 8 p.m. respectively; and omitting all reference to refreshment-room keepers.