

[AS REPORTED FROM THE LABOUR AND EDUCATION  
COMMITTEE]

*House of Representatives, 4 December 1980.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

*Hon. Mr Bolger*

## FACTORIES AND COMMERCIAL PREMISES

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## A BILL INTITULED

## An Act to consolidate and amend the Factories Act 1946 and the Shops and Offices Act 1955

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

**1. Short Title and commencement**—(1) This Act may be cited as the Factories and Commercial Premises Act 1979.

*New*

(2) This Act shall come into force on a date appointed by the Governor-General by Order in Council. 10

**2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

*New*

- “Armed forces” has the same meaning as in the Defence Act 1971:
- 5 “Award” means an award or collective agreement within the meaning of the Industrial Relations Act 1973, and includes—
- (a) An agreement filed under Part X of that Act; and
- 10 (b) An order or determination as to conditions of employment made under the State Services Conditions of Employment Act 1977 or the Post Office Act 1959; and
- (c) Regulations as to conditions of employment made under the Government Railways Act 1949, the Hospitals Act 1957, or the Education Act 1964:
- “Bakehouse” means a place where food is baked, or prepared for baking, for sale for human consumption; but does not include a hotel or a restaurant:
- 20 “Business” means a profession, trade, manufacture, occupation, or work, carried on for pecuniary gain; and includes the operations of a Department of State, local authority, public body, society, or other body of persons of any kind, whether incorporated or not and whether or not carried on for pecuniary gain:
- 25 “Chief Inspector (*of Factories*)” means the Chief Inspector of Factories appointed under section 4 (7) of this Act:
- “Cinema” means a place where there is carried on the business of exhibiting films within the meaning of the Cinematograph Films Act 1976:
- 30 “Code of practice” means a code of practice issued under section (38) 59 of this Act, and includes any part or parts of a code of practice, and any amendment of any code of practice:
- 35 “Factory”, subject to subsection (2) of this section, means a place where more than 1 person is engaged, or where any person is employed, directly or indirectly, in the business of any handicraft, or in the business of preparing or manufacturing goods for trade or sale; and (whatever number of persons is engaged or employed therein) includes—
- 40

- (a) A bakehouse:
- (b) A place where steam or other mechanical power or appliance is used for the purpose of preparing or manufacturing goods for trade or sale, or packing goods for transit: 5
- (c) A place where electrical energy is generated or transformed as an illuminant or a motive power, for trade or sale, or where any form of gas is produced for like purposes:
- (d) A laundry (whether or not the persons employed in it receive payment): 10
- (e) A place (not being a place on a farm) where the business of pasteurising milk is carried on:
- (f) An abattoir within the meaning of the Meat Act 1964: 15
- (g) A place where any noxious handicraft, noxious process, or noxious employment, is carried on:

*Struck Out*

(h) A place where there is carried on, whether by its owner alone or otherwise, the business of spray-painting, the business of the manufacture of fibreglass, or any business involving any process or manufacture using fibreglass or asbestos: 20

*New*

- (h) A place where there is carried on— 25
- (i) The business of spray-coating with a noxious or flammable substance; or
- (ii) The business of the manufacture of fibre-reinforced plastic products; or 30
- (iii) Any business involving a process or manufacture using asbestos:

“Fire-safety certificate” means a certificate issued under section (35) 19A of this Act:

*New*

“Hospital” has the same meaning as in the Hospitals Act 1957: 35

“Hotel” means a place in respect of which a hotel premises licence or a tavern premises licence under the Sale of Liquor Act 1962 is for the time being in force; and includes a place in which is carried on exclusively the business of a private hotel or boardinghouse, and in which—

(a) The number of guests or boarders usually exceeds 4; or

(b) The number of persons employed (other than members of the family of the occupier) usually exceeds 1;—

but where such a licence is held in respect of only part of a place, or where only part of a place is used for such a business, only that part shall constitute a hotel:

“Inspector” means an Inspector of Factories appointed under section 4 (1) of this Act; and includes the Chief Inspector and the Deputy Chief Inspector of Factories:

*New*

“Laboratory” does not include any place attached to or forming part of a university, school, or hospital, or occupied by the Crown:

“Laundry” means a place in which the business of laundry work is performed for hire or reward:

“Local authority”, in relation to an undertaking, means the city council, borough council, town council, or county council, in whose district that undertaking is situated:

“Medical Officer of Health” means a Medical Officer of Health under the Health Act 1956:

“Minister” means the Minister of Labour:

*New*

“Noise” includes sound energy of any frequency, whether or not capable of being perceived by the unaided human ear:

“Noxious handicraft”, “noxious process”, and “noxious employment” (*mean*) include, respectively, a handicraft, process, or employment, for the time being declared to be noxious by the Governor-General by Order in Council:

“Occupier”, in relation to any place, means the person occupying that place, and includes any agent, manager, foreman, or other person, acting or apparently acting in the general management or control of that place; and where a place is occupied by a body of persons, whether corporate or unincorporate, also includes the working manager: 5

“Office” means a place in which any person is employed, directly or indirectly, to do any clerical work in connection with any business carried on by the occupier of that place: 10

“Place” includes any building, land, room, or undertaking, and any part (whether separately divided or enclosed) of any building, land, room, or undertaking: 15

“Restaurant” means any place other than a hotel where there is carried on exclusively the business of selling meals or refreshments to the general public for consumption in that place:

“Sanitary convenience” includes a urinal, a water closet, an earth closet, a chemical toilet, a privy, and any similar convenience: 20

*New*

“School” means a teachers’ college, technical institute, community college, or secondary school, (within the meaning of the Education Act 1964): 25

“Secretary” means the Secretary of Labour:

“Serviceman” has the same meaning as in the Defence Act 1971:

“Shop” means a place where goods are kept, exposed, or offered, for sale by retail, or where any facility required by this Act to be provided or maintained in respect of a shop or the workers in it is situated, and includes a hairdressing salon and an auction mart; but does not include— 30

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

(b) A place in which is carried on exclusively the business of selling by auction agricultural or pastoral products, including livestock; or 40

(c) A warehouse; or

(d) A hotel; or

(e) A restaurant.

“Store” means a place in which goods are kept; but does not include a shop or a warehouse: 45

*New*

“Theatre” does not include any place attached to or forming part of a university, school, or hospital:

5 “Undertaking” means a place that is a bakehouse, a cinema, a factory, a hotel, a laundry, a laboratory, an office, a restaurant, a shop, a store, a theatre, a mail room, a telegraph office, a telex office, a place where for pecuniary gain motor vehicles are repaired, serviced, or tested, or a warehouse:

10 “Warehouse” means a place where goods are sold to persons who are dealers in goods of that kind and who buy those goods to sell again:

*New*

15 “University” has the same meaning as in the Universities Act 1961:

*Struck Out*

“Week” means a period commencing on a Sunday and ending with the following Saturday.

*New*

20 “Week” means a period of 7 days commencing at midnight on a Saturday:

(2) No place shall be deemed to be a factory by virtue only of the fact that it is:

25 (a) A crushing plant or quarry within the meaning of the Quarries Act 1944; or

*Struck Out*

(b) A workshop associated with a coal mine or a petroleum installation; or

*New*

30 (b) A workshop associated with a coal mine (within the meaning of the Coal Mines Act 1979) or with any mining or prospecting for petroleum; or

(c) A private dwellinghouse where its occupier works as a tailor or dressmaker; or

35 (d) A place that is situated on a farm or orchard and used for grain drying, fruit packing, or honey packing; or

(e) An automatic electrical sub-station where no person regularly works; or

40 (f) A cinema; or

- (g) A private dwellinghouse where its occupier does laundry for individual clients (not being work let out by some intermediate agent or principal); or
- (h) An occupational therapy workshop operated by a hospital board; or 5
- (i) Any place occupied by a harbour board; or
- (j) A (*hotel, restaurant*) cafeteria or canteen where food baked or prepared is solely for consumption on the premises; or
- (k) A place where wreaths or bouquets are made up; or 10
- (l) A pharmacy within the meaning of the Pharmacy Act 1970; or
- (m) A place where wool is classed; or
- (n) A place on a farm where produce from that farm that is intended for the farmer's own use or consumption is dealt with or processed, or where produce 15 from several farms that is intended for the use or consumption of members of a co-operative comprising the persons farming those farms is dealt with or processed; or
- (o) A building or place where green hides are salted or packed; or 20
- (p) A water pumping station; or

*New*

(pa) A shop in which sausages are manufactured for sale in that shop; or 25

(q) A shop where soft ice-cream is manufactured in, and dispensed from, any machinery directly into cones or individual cartons; or

(r) A place where (*meals are prepared*) food is prepared or cooked, and sold, in a form ready for immediate human consumption elsewhere than in the place; or 30

(s) A shearing shed within the meaning of the Shearers Act 1962; or

*New*

(sa) A place where combustible gas is produced from biological materials for— 35

(i) Use as a fuel by the occupier of that place; or

(ii) Use for the generation of electricity for consumption by the occupier of that place; or 40



- (t) A building in the course of construction; or  
 (u) A temporary workshop or shed for workmen engaged in the **(erection)** construction of any building.

New

5 (2A) No place shall be deemed to be a factory by virtue only of the fact that it is a place where goods are manufactured for sale, if—

- (a) All the goods so manufactured are produced by hand, or by the use of mechanical appliances that—
- 10 (i) Do not produce the goods in a repetitive manner through the use of jigs, templates, moulds, patterns, dies, jolleys, or other similar devices, except to the extent that such devices may be used to produce an original or first unit; and
- 15 (ii) Produce the goods through the direct control of the operator of those appliances; and
- (iii) Do not produce the goods according to a pre-determined pattern for production run purposes; and
- 20 (b) All the goods so manufactured are produced by persons each of whom designs and has complete and variable control over every stage of the production of all the goods he produces; and
- (c) No person is employed in the production of any of the goods so manufactured; and
- 25 (d) No noxious handicraft or noxious process is involved in the production of any of the goods so manufactured.

30 (3) Where the operations of an undertaking are carried on in several adjacent places, those places shall together be deemed to constitute a single undertaking, notwithstanding that they may in fact be separated by a road, street, river, or stream, or by any place not forming part of the undertaking.

35 (4) A person employed by the same employer in more than **(1 of the establishment of an)** one undertaking shall, for the purposes of this Act, be deemed to be exclusively employed in the **(establishment)** undertaking in which he is chiefly employed; and the decision of an Inspector as to the **(establish-**  
 40 **ment)** undertaking in which any such person is chiefly employed shall, subject to subsection (5) of this section, be final.

(5) The occupier of an undertaking where a person in respect of whom an Inspector has made a decision under subsection (4) of this section is employed may require the Inspector to give that occupier written notice of that decision; and in that case—

(a) The Inspector shall give that occupier written notice of that decision; and

(b) That notice shall, for the purposes of section 63 of this Act, be deemed to be a requisition; and that section shall apply to it accordingly.

(6) For the purposes of Parts III to V of this Act, while any school pupil is placed in any undertaking as part of a work experience scheme or work exploration scheme, (*approved by the principal of the school at which that pupil is enrolled*) that pupil shall be deemed to be employed in that undertaking; and the provisions of those Parts of this Act shall apply to that pupil accordingly.

Cf. 1946, No. 43, ss. 2, 3; 1955, No. 32, s. 2

*Struck Out*

**3. Act to bind the Crown**—This Act shall bind the Crown.

*New*

**3. Application of Act to the Crown**—(1) Except as otherwise expressly provided in this section, this Act shall bind the Crown.

(2) Neither Part I nor Part VI of this Act shall bind the Crown with respect to—

(a) Undertakings occupied by the armed forces:

(b) Offices occupied by the Crown.

(3) Part II of this Act shall not bind the Crown with respect to factories occupied by the armed forces.

(4) Part V of this Act shall not bind the Crown with respect to—

(a) Undertakings occupied by the armed forces:

(b) The employment of any person as a serviceman.

Cf. 1946, No. 43, s. 103

PART I

INSPECTORS

**4. Appointment of Inspectors**—(1) Subject to subsection (2) of this section, there shall from time to time be appointed

under the State Services (*Conditions of Employment Act 1977*) Act 1962 such number of persons to be Inspectors of Factories as may be necessary for the purposes of this Act and any other enactment that confers or imposes powers or

5 duties on Inspectors of Factories.

(2) Subject to subsections (6) and (9) of this section, no person shall be appointed to be an Inspector unless he has passed such examination to test his knowledge of the provisions of this Act, and of conditions in undertakings generally, as the Secretary requires.

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(3) There may from time to time be appointed under the State Services (*Conditions of Employment Act 1977*) Act 1962, for periods not exceeding 12 months from the date of their appointment, such number of persons to be Trainee

15 Inspectors of Factories as may be expedient for the purposes of this Act.

(4) It shall not be necessary for a Trainee Inspector of Factories to pass the examination referred to in subsection (2) of this section.

(5) While under the supervision of an Inspector who is not a Trainee Inspector of Factories, a Trainee Inspector of Factories shall be deemed to be an Inspector; and this Act shall apply to him accordingly.

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(6) Any Inspector of Quarries under the Quarries Act 1944 may, without passing the examination referred to in subsection (2) of this section, be appointed to be an Inspector for the purpose of exercising and performing the powers and duties of an Inspector in respect of any undertaking situated in or about a quarry.

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(7) There shall from time to time be appointed under the State Services (*Conditions of Employment Act 1977*) Act 1962 a Chief Inspector of Factories and a Deputy Chief Inspector of Factories.

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(8) Subject to any directions of the Chief Inspector (*of Factories*), the Deputy Chief Inspector of Factories shall have and may exercise and perform all or any of the powers, duties, and functions of the chief Inspector; and the fact that he exercises or performs any such power, duty, or function shall be conclusive evidence of his authority to do so.

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(9) Any member of the Police may, without passing the examination referred to in subsection (2) of this section, be authorised in writing by the Chief Inspector (*of Factories*) to act as an Inspector; and in that case, until that authorisation is in like manner revoked, he shall be deemed to be an Inspector. 5

Cf. 1946, No. 43, s. 4

**5. Powers of Inspectors**—(1) Every Inspector, accompanied if he thinks fit by a member of the Police or any other officer of the Public Service qualified to assist him in the execution of his duty, may— 10

(a) Enter any undertaking at all reasonable hours by day and night when he has reasonable cause to believe that any person is employed in it, and enter by day any place that he has reasonable cause to believe to be an undertaking or to have an undertaking on its premises: 15

Provided that where, in order to enter any place that he believes to be an undertaking, an Inspector wishes to enter part of a private dwellinghouse (being a part that he does not believe to be an undertaking), he shall not enter that last-mentioned part except with the consent of the occupier or pursuant to a warrant issued under subsection (2) of this section: 20 25

(b) Make such inspections, examinations, tests, and inquiries, and take such samples and photographs, as are necessary to ascertain whether the provisions of this Act (*or any Act relating to public health*) have been or are being complied with as regards any undertaking or any persons working in it; and where any such sample is taken, the Inspector concerned shall, if so requested, deliver part of it to the occupier of the undertaking concerned: 30

(c) Require the production of any certificate of registration, book, notice, record, list, or other document, required by this Act to be kept or exhibited by the occupier of any undertaking, and inspect, examine, and copy or take notes from it: 35

(d) Subject to subsection (3) of this section, examine with respect to matters under this Act, either alone or in the presence of any other person, as he thinks fit, any person whom he finds in any undertaking, 40

or whom he believes on reasonable grounds to have been employed in or about an undertaking within the preceding 6 months, and require that person to make and sign a statutory declaration as to the matters with respect to which he is examined:

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(e) Have and exercise such other powers and authorities as are necessary to carry this Act into effect.

(2) Any District Court Judge or Justice who, on an application in writing made on oath, is satisfied that there is reasonable ground for believing there to be an undertaking, reasonably practicable access to which can only be gained through part of a private dwellinghouse, may issue to an Inspector named therein a warrant, in a form prescribed by the Governor-General by Order in Council, to enter that dwellinghouse.

15

(3) No person shall, on examination or inquiry under this section, be required to give to any question any answer tending to incriminate him.

(4) Subject to subsection (5) of this section, except for the purposes of this Act and the exercise of his functions under this Act, or with the consent of the Minister, no Inspector or Trainee Inspector of Factories shall disclose to any person any information that he acquires in the course of the exercise of those functions.

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(5) If so requested by a Coroner, an Inspector shall provide him with a written report relating to the circumstances of any fatal accident.

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Cf. 1946, No. 43, s. 5; 1955, No. 32, s. 44

**6. Occupiers to allow entry and inspection**—The occupier of an undertaking, his agents and servants, shall at all times furnish the means required by an Inspector for an entry, inspection, examination, or inquiry, or the exercise of any other power under this Act in relation to that undertaking.

30

Cf. 1946, No. 43, s. 6

**7. Matters may be completed by different Inspector**—

Where an Inspector has issued a requisition, or given a direction, exemption, authorisation, or consent, whether upon or subject to any conditions or not, that Inspector or any other Inspector may withdraw that requisition or take any further steps relating to it, or revoke or from time to time vary that direction, exemption, authorisation, or consent, or any condition upon or subject to which it was given.

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Cf. 1955, No. 32, s. 45

**8. Certificates of appointment**—(1) Every Inspector shall be furnished with a certificate in the prescribed form of his appointment to be an Inspector or, as the case may be, to be a Trainee Inspector of Factories; and on applying for admission to any place he shall, if so required, produce that certificate to the occupier of that place. 5

(2) In the case of a member of the Police who is authorised in writing under section 4 (9) of this Act to act as an Inspector, his written authority so to act shall be deemed to be the certificate required to be furnished and produced by subsection (1) of this section. 10

Cf. 1946, No. 43, s. 8; 1955, No. 32, s. 44 (4)

## PART II

### REGISTRATION OF FACTORIES

**9. Factory not to be occupied unless registered**—(1) No person shall occupy a factory unless it is for the time being duly registered under this Act. 15

#### *Struck Out*

(2) Every factory that was, immediately before the commencement of this section, registered under the Factories Act 1946 shall be deemed to be duly registered under this Act. 20

Cf. 1946, No. 43, s. 9

**10. Applications for registration**—(1) Every application for the registration of a factory shall be made in writing in the prescribed form to an Inspector by or on behalf of the intending occupier, and shall specify, in relation to that factory,— 25

- (a) Its name and situation; and
- (b) The nature of the work intended to be carried on in it; and 30
- (c) The number of persons intended to be engaged or employed in it; and
- (d) The full name of its intended occupier; and
- (e) The name or style under which its business is to be carried on; and 35
- (f) Such other particulars as are prescribed.

(2) Every such application shall be accompanied by—

- (a) A sketch plan, drawn to scale and satisfactory to the Inspector, of the factory or intended factory; and 40
- (b) The prescribed fee.

(3) Where an Inspector is satisfied that an application under this section is in order, he shall register the factory concerned by entering in a register kept for the purpose prescribed details of the factory, and issuing to the intended occupier a certificate of registration in the prescribed form.

Cf. 1946, No. 43, ss. 10, 12

**11. Duration of registration**—(1) The registration of a factory under (section 9 of) this Act shall continue in force—

(a) In the case of a registration effected in January in any year, until the 31st day of January in the following year; or

(b) **(Subject to paragraph (a) of this subsection)** In any other case, until the 31st day of January following the day the registration was effected.

(2) Every factory on any day registered under section 12 of the Factories Act 1946 shall be deemed to have been registered under (section 9 of) this Act on that day, and subsection (1) of this section shall apply to the registration accordingly.

Cf. 1946, No. 43, s. 14

### PART III

#### *Struck Out*

#### HOURS OF WORK AND OVERTIME

#### *New*

#### EMPLOYMENT GENERALLY

#### *Struck Out*

**12. Limits of ordinary working hours**—(1) Except as provided in section 13 of this Act, no occupier of an undertaking that is not a hotel or restaurant shall employ any worker for more than 40 hours (excluding meal times) in any week.

(2) Except as provided in—

(a) Any award or collective agreement within the meaning of the Industrial Relations Act 1973; or

(b) Any agreement filed under Part X of that Act; or

(c) Any order or determination as to conditions of employment made under the State Services Conditions of Employment Act 1977 or the Post Office Act 1959; or

*Struck Out*

(d) Section 13 of this Act,—

no occupier of an undertaking that is not a hotel or restaurant shall employ any worker on more than 5 days in any week.

(3) Subject to subsection (4) of this section, except as provided in section 13 of this Act, no occupier of an undertaking that is not a hotel or restaurant shall employ any worker for more than 8 hours (excluding meal times) on any day. 5

(4) The occupier of a shop may employ any worker for not more than 11 hours (excluding meal times) on 1 day in 10 each week.

(5) Except as provided in—

(a) Any award or collective agreement within the meaning of the Industrial Relations Act 1973; or

(b) Any agreement filed under Part X of that Act; or 15

(c) Any order or determination as to conditions of employment made under the State Services Conditions of Employment Act 1977 or the Post Office Act 1959—

but subject to subsection (6) of this section, no occupier of an undertaking that is not a hotel or restaurant shall employ any worker for more than  $4\frac{1}{4}$  hours continuously without an interval of at least 45 minutes for a meal. 20

(6) On any day when—

(a) A worker in or about an undertaking is allowed a rest interval of at least 10 minutes after every working period; and 25

(b) No working period exceeds 3 hours,—

subsection (5) of this section shall apply to that worker as if the reference in that subsection to the period of  $4\frac{1}{4}$  hours were a reference to the period of 5 hours. 30

(7) On any day, a person employed in or about an undertaking shall for the purposes of this Act be deemed to be employed for, and shall be entitled to be paid in respect of, the whole period between the time he starts work and the time he finishes work (whether to have a second meal before recommencing work or until the next day) other than either— 35

(a) The time earlier allowed to him for a meal; or

(b) One hour,—

whichever is the lesser. 40

Cf. 1946, No. 43, s. 19 (1); 1955, No. 32, s. 14



*Struck Out*

13. **Overtime**—(1) Subject to section 15 of this Act and to subsection (3) of this section, the occupier of an undertaking that is not a hotel or restaurant may employ any person who has attained the age of 16 years in or about that undertaking—

- (a) On any day in excess of 5 in any week; or
- (b) For hours in excess of 40 in any week; or
- (c) For hours in excess of 8 on any day (in the case of an undertaking that is not a shop); or
- (d) For hours in excess of 8 on any day in any week other than the day in that week nominated by the occupier of that undertaking as the recognised late night (in the case of a shop);—

but that occupier shall not so employ that person for more than 4 consecutive hours without an interval of at least 30 minutes for rest and refreshment, and, subject to subsection (2) of this section shall pay that person for the period during which he is so employed at a rate at least half as great again as the ordinary rate.

(2) Where a worker is employed in or at a bush sawmill engaged solely at logging, breaking down, and sawing rough timber, or any of those activities, he shall be entitled to be paid at a rate higher than the ordinary rate for only the hours in excess of 40 in any week for which he actually works.

(3) The occupier of an undertaking shall ensure that every worker on at least 1 day in each week employed for no more than 8 hours (excluding meal times).

Cf. 1946, No. 43, s. 20; 1955, No. 32, s. 15

14. **Employment of young persons**—(1) The occupier of a factory shall not employ any person who has not attained the age of 16 years in or about that factory—

- (a) At any time between 6 p.m. on any day and 7 a.m. the following day; or
- (b) On any day that is a Sunday; or
- (c) Except as provided in any award, agreement, order, or determination, of a kind specified in section 12 (2) of this Act, on New Year's Day, the day after New Year's Day, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Christmas Day, Boxing Day, or the day observed in the locality in which the undertaking is situated as Anniversary Day.

*Struck Out*

(2) Subject to subsection (3) of this section,—

(a) The occupier of a shop shall not employ any person in or about that shop who has not attained the age of 16 years; and

(b) No person shall employ any such person, whether under a contract of service or otherwise, in connection with the delivery of milk or newspapers—

at any time between 10.30 p.m. on any day and 7 a.m. on the following day.

(3) At any time between 6 a.m. and 7 a.m. on any day—

(a) A person who has attained the age of 12 years may be employed or engaged in connection with the delivery of newspapers; and

(b) A person who has attained the age of 14 years may be employed or engaged in connection with the delivery of milk.

(4) The occupier of a hotel or restaurant shall not employ any person who has not attained the age of 16 years in or about that hotel or restaurant, or the business of that hotel or restaurant, at any time between 10.30 p.m. on any day and 5 a.m. on the following day.

*New*

**14. Employment of young persons**—(1) No person shall, between the hours of 10 p.m. on any day and 6 a.m. on the following day, employ any person who has not attained the age of 16 years—

(a) In any undertaking; or

(b) Whether under a contract of service or otherwise, in connection with the delivery of milk or newspapers.

(2) The occupier of a factory shall not employ in or about that factory any person who has not attained the age of 15 years.

Cf. 1946, No. 43, ss. 19 (2), 37 (1); 1955, No. 32, ss. 13, 20 (1)

**15. Hours of employment of women in factories**—(1) Subject to subsections (4) and (5) of this section, the occupier of a factory shall not employ any woman in or about that factory at any time between 6 p.m. on any day and 11 a.m. on the following day unless during that period she has a continuous rest interval of at least 11 consecutive hours (of which at least 7 fall between 10 p.m. and 7 a.m.) during which she is not so employed.

(2) Except with the consent of an Inspector, given after consultation with each organisation of employers and workers concerned, the interval of 11 hours referred to in subsection (1) of this section shall begin not later than 11 p.m.

5 (3) In giving his consent under subsection (2) of this section the Inspector may impose any conditions he thinks fit.

(4) Subsection (1) of this section shall not apply—

10 (a) To any factory in which all the persons employed or engaged are members of the same family; or

(b) To the employment of any woman—

(i) In a responsible position of a managerial or technical nature; or

15 (ii) In a health or welfare service that does not ordinarily involve her in undertaking manual work.

(5) (The occupier) Subject to section 14 of this Act, the occupier of a factory may employ any woman in or about it at any time if an Inspector, being satisfied that her employment is necessary—

20 (a) To preserve from certain loss—

(i) Raw materials; or

(ii) Materials in the course of treatment—  
that are subject to rapid deterioration; or

25 (b) To make up production lost in a factory by the occurrence of any event that could not reasonably have been foreseen and prevented by the occupier of the factory and that is not of a recurring nature,—

30 with the approval of the Secretary and subject to such conditions as the Inspector thinks fit, consents to her employment at that time.

*New*

35 (6) Subject to subsection (7) of this section, the Governor-General may by Order in Council, on the recommendation of the Minister, repeal this section.

40 (7) The Minister shall not recommend to the Governor-General the repeal of this section unless the Minister is satisfied that New Zealand is no longer bound by International Labour Organisation Convention 89 covering Night Work of Women Employed in Industry.

*Struck Out*

**16. Prevention of evasion of provisions as to working hours**—(1) For the purposes of sections 12 to 15 of this Act, all work done by a worker for the occupier of an undertaking elsewhere than in or about that undertaking (whether or not that work is connected with the business of that undertaking) shall be deemed to be done while that worker is employed in that undertaking. 5

(2) The occupier of a shop shall not employ any worker in or about that shop, or in its business, during meal times or during any interval allowed him for rest and refreshment. 10

(3) The occupier of a shop shall be deemed to employ a worker in that shop contrary to subsection (2) of this section if that worker in fact does any work in or about the shop, whether the occupier of the shop has assented to his doing so or not. 15

(4) All work done elsewhere than in a shop for the occupier of that shop by a worker (whether or not the work is in connection with the business of the shop) shall, for the purposes of this Part of this Act, be deemed to be done while that worker is employed in that shop; and the time spent in doing that work shall be counted accordingly. 20

Cf. 1946, No. 43, s. 23; 1955, No. 32, s. 17

*New*

**16. Payment for time worked unlawfully**—Notwithstanding anything in the Illegal Contracts Act 1970, for the purposes of the recovery of wages or other money claimed by any worker in respect of the worker's employment in any undertaking (whether by the worker or on the worker's behalf under section 158 of the Industrial Relations Act 1973), that employment shall not be deemed to have been unlawful by reason only of the fact that it was in contravention of any provision of this Act. 25 30

**17. Wages and time record**—(1) The occupier of an undertaking shall keep (*in that undertaking*) in the prescribed form or a form approved by an Inspector a record in English (called the wages and time record) showing, in the case of each worker; 35

- (a) His name; and
- (b) His age, if less than 20; and 40
- (c) The kind of work on which he is usually employed; and

- (d) The award (*or collective agreement*) (if any) (*within the meaning of the Industrial Relations Act 1973*) under which he is employed; and
- 5 (e) The hours of his employment during, and his starting and finishing times for each day; and
- (f) The days of his employment during each week; and  
*Struck Out*
- (g) The wages paid to him each week; and  
*New*
- 10 (g) The days on which he has been paid, and the amount paid to him on each such day; and
- (h) Such other particulars as are prescribed.  
*Struck Out*
- 15 (2) The occupier of an undertaking shall keep open at all times for inspection by an Inspector every wages and time record relating to workers that was in use at any time during the preceding 6 years.  
*New*
- 20 (2) The occupier of an undertaking shall, upon request made at any reasonable time by an Inspector, produce forthwith for inspection by that Inspector every wages and time record that is, or at any time during the preceding 6 years was, in use in respect of any person employed in or about that undertaking.
- 25 (3) An Inspector may at any time during ordinary working hours require the occupier of an undertaking to verify any entries in any wages and time record relating to workers, by statutory declaration, or in such manner and form as is prescribed.
- 30 Cf. 1946, No. 43, s. 15  
*New*
- 17A. **Certificates of employment**—The occupier of an undertaking shall, upon the request of any person at any time within the previous 12 months employed in or about that  
35 undertaking by that employer, give that person a certificate under his hand stating correctly—
- (a) The periods during which that person has been employed in or about that undertaking by that employer; and
- 40 (b) The different positions held by that person during those periods; and
- (c) The period for which each such position was held.  
Cf. 1946, No. 43, s. 35 (1)

**18. No premium to be charged for employment in undertaking**—(1) No occupier of an undertaking shall seek or receive any premium in respect of the employment of any person in the undertaking, whether the premium is sought or received from the person employed or proposed to be employed or from any other person. 5

(2) Where the occupier of an undertaking receives any amount of money in contravention of subsection (1) of this section, whether by way of deduction from wages or otherwise, then, irrespective of any penalty to which that occupier thereby becomes liable, the person by whom the money was paid or, as the case may be, from whose wages it was deducted, may recover that amount from that occupier as a debt due to that person; and civil proceedings for the recovery of that amount may be instituted by that person or, notwithstanding any disability to which that person is subject, by an Inspector on behalf of that person. 10 15

Cf. 1946, No. 43, s. 36; 1955, No. 32, s. 18

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PART IV

RESTRICTIONS ON FACTORY WORK

**19. Persons under 15 not to be employed**—The occupier of a factory shall not employ any person who has not attained the age of 15 years in or about that factory. 20

Cf. 1946, No. 43, s. 37 (1) 25

**20. Women and young persons not to work with lead**—No person shall employ any woman or any person who has not attained the age of 16 years in any process involving the making of white lead or the melting, casting, pasting, grinding, or burning of lead or of any material containing lead, or any other work involving the use or movement of, or contact with, any compound of lead. 30

Cf. 1946, No. 43, s. 38 (2)

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*New*

## PART IV

## PROVISIONS APPLYING ONLY TO FACTORIES

5 **19. White phosphorus not to be used in manufacture of matches**—The occupier of a factory shall ensure that the substance usually known as white phosphorus or yellow phosphorus is not used in the manufacture of matches in that factory.

Cf. 1910, No. 4, s. 4 (1)

10 **19A. Factories to have fire-safety certificates**—(1) The occupier of a factory shall not allow any worker to be employed in it unless—

15 (a) A fire-safety certificate issued under subsection (3) of this section is for the time being in force in respect of the factory; or

(b) An application has been made for the issue of a fire-safety certificate in respect of the factory and the local authority to which the application has been made has not declined to grant the certificate.

20 (2) Every application for a fire-safety certificate shall be made in the prescribed form to the local authority.

(3) As soon as practicable after receiving an application under subsection (2) of this section, the local authority shall cause the factory in respect of which the application was  
25 made to be inspected and, if it is satisfied that the means of escape and fire-alarm system comply with its requirements, it shall issue to the occupier of the factory a fire-safety certificate in the prescribed form, which shall specify in respect of the factory—

30 (a) Particulars of the means of escape; and  
(b) Particulars of the fire-alarm system provided; and  
(c) The number of persons normally employed in it; and  
(d) The maximum number of persons that may be employed in it at any one time; and

35 (e) Particulars of any dangerous goods within the meaning of the Dangerous Goods Act 1974 normally stored or used in it.

(4) If the local authority is not so satisfied, it shall serve on the occupier of the factory a written notice in the pre-  
40 scribed form stating that it will decline to grant a fire-safety

*New*

certificate unless specified defects are remedied within a specified time; and subject to section 19c of this Act, where those defects have not been remedied within that time, the local authority shall be deemed to have declined to grant a fire-safety certificate for the factory. 5

(5) A copy of every certificate issued under subsection (3) of this section and of every notice served under subsection (4) of this section shall be forwarded by the local authority to an Inspector. 10

(6) If at any time after issuing a fire-safety certificate in respect of any factory a local authority is not satisfied that the means of escape and fire-alarm system specified in the certificate continue to comply with the local authority's requirements, it shall serve a written notice on the occupier of the factory; and in that case— 15

(a) Subsections (4) and (5) of this section, so far as they are applicable and with the necessary modifications shall apply to that notice as if it were a notice under the said subsection (4); and 20

(b) Subject to section 19c of this Act, that fire-safety certificate shall thereupon be deemed to have been cancelled.

(7) Subject to subsection (8) (b) of this section, no occupier of a factory in respect of which a fire-safety certificate has been issued shall— 25

(a) Introduce changes involving—

(i) Any substantial increase in the number of persons employed in the factory; or

(ii) Any extension of, or structural alteration to, the factory; or 30

(iii) The introduction of any process in which dangerous goods within the meaning of the Dangerous Goods Act 1974 will be used; or

(iv) Any substantial increase in the quantity of such dangerous goods stored or use in the factory; or 35

(b) Introduce any other changes whatsoever that may adversely affect the efficiency of the means of escape or fire-alarm system— 40

unless he has given the local authority at least 1 month's written notice of his intention to do so.



*New*

- (8) The occupier of a factory may give the local authority notice of his intention to introduce a change of a kind specified in subsection (7) of this section; and in that case—
- 5 (a) Subsections (3) to (5) of this section, so far as they are applicable and with the necessary modifications, shall apply to that notice and the issue of a new fire-safety certificate as if that notice were an application under subsection (2) of this section; and
- 10 (b) Where a new fire-safety certificate is issued in respect of the factory, that change may be introduced accordingly.
- (9) If an Inspector has reason to believe that the means of escape or the fire-alarm system in any factory are or is
- 15 inadequate, he may notify the local authority in writing of the reasons for his belief.
- (10) Upon receipt of a notice under subsection (9) of this section, the local authority shall cause the factory to be inspected, and if it is not satisfied that the means of escape
- 20 and fire-alarm system comply with its requirements, subsection (6) of this section shall apply accordingly.
- (11) Any local authority may from time to time make bylaws prescribing the fee payable by occupiers of factories for the issue of fire-safety certificates.
- 25 (12) In respect of every factory operated by the Crown, every reference in this section (other than in subsection (11) of this section) to a local authority shall be read as a reference to the Commissioner of Works.

Cf. 1946, No. 43, s. 53

- 30 **19B. Fire-safety precautions in factories**—(1) The occupier of a factory shall ensure that every means of escape specified in the fire-safety certificate for the time being in force in respect of the factory is—
- (a) Maintained in good order and repair; and
- 35 (b) At all times kept free from obstruction.
- (2) The occupier of a factory shall ensure that, while workers are actually working in any room in the factory,—
- (a) Every door of the room; and
- 40 (b) Every door of any passage or staircase leading to the room or serving as a means of entrance to or exit from the room; and

*New*

(c) The outer or entrance door by which workers employed in the factory usually enter or leave the factory,— whether or not the door is part of the factory, are kept clear and unlocked, so as to allow quick and easy egress. 5

(3) The occupier of a factory shall ensure that there is provided in the factory, to the satisfaction of an Inspector, adequate and suitable fire-fighting equipment that is readily accessible at all times.

Cf. 1946, No. 43, s. 53A 10

**19c. Service of notices, appeals etc., in respect of fire-safety certificates—**(1) The provisions of sections 63 and 64 of this Act shall, with the necessary modifications, apply in respect of every notice served by a local authority under section 19A of this Act as if it were a requisition. 15

(2) The provisions of section 368 of the Municipal Corporations Act 1954 shall not apply in respect of any work to which section 64 of this Act, as applied by subsection (1) of this section, applies.

Cf. 1946, No. 43, s. 53B 20

## PART V

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## SAFETY PROVISIONS

*New*

## SAFETY, HEALTH AND WELFARE 25

**21. Safety generally—**(1) The occupier of an undertaking shall take all reasonable precautions for the safety and health of workers, and persons lawfully on the premises of the undertaking.

*New* 30

(1A) No person employed in or about an undertaking shall, without reasonable cause, do anything likely to endanger himself or any other person.

(1B) No person employed in or about an undertaking shall, without reasonable cause, interfere with or misuse any appliance, apparatus, clothing, convenience, device, equipment, guard, or other thing whatsoever, provided for securing the 35

*New*

health, safety, or welfare of persons employed in or about that undertaking.

5 (1c) Every person employed in or about an undertaking shall, so often as the circumstances for which it is provided arise, use any appliance, apparatus, clothing, device, equipment, guard, or thing, provided as aforesaid.

(2) None of the following provisions of this Part of this Act shall limit the generality of subsection (1) of this section.

10 Cf. 1946, No. 43, s. 74; 1977, No. 43, s. 56 (1)

**22. Inspector may deal immediately with serious dangers—**

(1) Where, after such consultation as he thinks fit, an Inspector is satisfied that—

15 (a) Any process or activity being carried on in or about an undertaking presents; or

(b) Any part of an undertaking, or any goods, substances, apparatus, or equipment, in or about it is or are so dangerous, or in so dangerous a condition as to present—

20 an immediate and serious danger to persons in the vicinity of that process or activity or undertaking, he may give the occupier written notice (*forthwith*) to take forthwith such steps as may be specified in that notice.

25 (2) Without limiting the generality of subsection (1) of this section, a notice under that subsection may require the occupier of the undertaking concerned to do either or both of the following things:

(a) To discontinue any specified process or activity:

30 (b) Not to use that undertaking or any specified part of it, until—

(i) Specified goods or substances have been removed, or stored in some specified manner; or

35 (ii) Specified repairs or alterations have been made to that undertaking or to any apparatus or equipment in it.

(3) A notice under subsection (1) of this section may be given subject to such conditions as the Inspector concerned thinks fit.

40 (4) For the purposes of sections 63 and 64 of this Act, a notice under subsection (1) of this section shall be deemed to be a requisition, and those sections shall apply to it

accordingly; but no occupier shall do anything in contravention of, or fail or refuse to comply with, that notice except to the extent that it has been modified by a District Court Judge.

**23. Training and supervision**—The occupier of an undertaking shall ensure that no worker undertakes any work unless— 5

- (a) He has been adequately instructed as to the dangers likely to arise in connection with that work and the precautions to be taken against them; or 10
- (b) He is a person with a sufficient knowledge and experience of that work; or
- (c) He is being adequately supervised by a person with a sufficient knowledge and experience of that work. 15

Cf. 1977, No. 43, s. 56 (2) 15

**24. Protective clothing and equipment**—(1) The occupier of an undertaking shall provide for workers who are engaged in any process or activity that involves a risk of bodily injury to them, or a danger to their health, from flying particles or fragments, or from falling objects, or from scalding, corrosive, irritant, toxic, or explosive substances, or from (harmful) electromagnetic or ionising radiation, or from any similar cause, such protective clothing and equipment as may be necessary to afford them reasonable protection against that risk or danger. 20 25

(2) The occupier of an undertaking where any worker is required to work in or upon, or in the vicinity of, any pile, heap, tank, silo, load, or other aggregation, of any solid material that is in such a form or state, or composed of pieces or particles so small, that it is capable of subsiding or flowing, in such a manner as to trap or engulf that worker, shall ensure that there is provided for the use of that worker a suitable safety harness or lifeline, securely fastened at its extremity, and sufficiently strong to enable that worker to be pulled from that material if trapped or engulfed as aforesaid. 30 35

(3) The occupier of an undertaking shall ensure that workers use the protective clothing and equipment provided by him so often as the circumstances for which they are provided arise ( ; and every such worker shall in those circumstances use the protective clothing or equipment, as the case may be, provided for him.) 40

Cf. 1977, No. 43, s. 56

*Struck Out*

25. **Storage of dangerous substances**—(1) The occupier of an undertaking shall ensure that every container in the undertaking holding a gas, liquid, or material, that is, or is likely to be, corrosive, irritant, toxic, radioactive, explosive, or dangerous, is safely and securely stored.

(2) The occupier of an undertaking shall ensure that every cylinder or bottle containing gas that is stored in the undertaking is so stored horizontally—

10 (a) On chocks; or

(b) On properly constructed racks—

in a position where it is protected from heat and damage.

*New*

25. **Storage of dangerous substances**—The occupier of an undertaking shall ensure that every container in that undertaking holding any material that is, or is likely to be, corrosive, irritant, toxic, radioactive, explosive, or otherwise capable of endangering the health of any person who may come into contact with it or be in its vicinity, is—

20 (a) Safely and securely stored; and

(b) Clearly labelled.

Cf. 1955, No. 32, s. 23

26. **Storage of materials generally**—(1) The occupier of an undertaking shall take all reasonable steps to ensure that all goods, materials, substances, and equipment in that undertaking are so stacked, stored, secured, and kept that—

(a) They do not constitute a danger to persons in their vicinity; and

30 (b) They cannot, whether of their own accord, or by virtue of any external force (intentionally applied or otherwise), so flow, move, roll, or collapse, as to constitute a danger to persons in their vicinity.

(2) The occupier of an undertaking shall ensure that all workers who are or may be responsible for stacking, storing, securing, or keeping any goods, materials, substances, or equipment are fully instructed as to the safe manner of doing so.

*Struck Out*

27. **Vessels containing liquids**—Where there is in or about any undertaking, or on the land on which the undertaking is situated, any vat, pan, fixed vessel, structure, sump, or pit,—

*Struck Out*

- (a) That contains any liquid; and  
 (b) Whose edge is less than 1 m above the adjoining ground, floor, or platform,—

the occupier of the undertaking shall either ensure that it is securely covered or securely fenced to at least that height or, where by reason of the nature of the work of the undertaking neither secure covering nor secure fencing to that height is practicable, by covering, fencing, or other means, to ensure that no person falls into it.

*New*

**27. Vessels containing liquids**—(1) Subject to subsection (2) of this section, where there is in or about any undertaking, or on the land on which any undertaking is situated, any vat, pan, fixed vessel, structure, sump, or pit—

- (a) That contains any liquid; and  
 (b) Whose edge is not 1 m or more above the adjoining ground, floor, or platform,—

the occupier of that undertaking shall ensure that either—

- (c) There is placed round it in a position that, in the opinion of an Inspector, will provide adequate protection for persons in its vicinity, a secure fence that extends at least 1 m above the adjoining ground, floor, or platform; or  
 (d) It is securely covered.

(2) Where an Inspector is satisfied that it is impracticable to comply with subsection (1) of this section in respect of any vat, pan, fixed vessel, structure, sump, or pit, as aforesaid, it shall be a sufficient compliance with that subsection if the occupier of the undertaking concerned takes all reasonable steps to ensure that no person falls into it.

Cf. 1946, No. 43, s. 44

**28. Workers employed under loads**—Where any worker in an undertaking is engaged in any work under something that has been raised or lifted for the purpose of enabling the work to be done, the occupier of the undertaking shall ensure that supports are so placed under that thing that it cannot drop or be lowered while the worker is so engaged.

Cf. 1946, No. 43, s. 45; 1955, No. 32, s. 23

**29. Carrying of heavy loads**—No occupier of an undertaking shall require any worker to lift, carry, or move any load so heavy that its lifting, carriage, or movement would be likely to injure him.

5 Cf. 1946, No. 43, s. 46; 1955, No. 32, s. 23

**30. Safe means of access**—(1) The occupier of an undertaking shall ensure that there is provided and maintained in the undertaking safe means of access to every place at which any worker is required to work or to which any worker is required to go.

10 (2) Without limiting the generality of subsection (1) (a) of this section, the occupier of an undertaking in which there is a basement whose area exceeds 100 m<sup>2</sup> shall ensure that there are at least 2 safe means of access, remotely separated from each other, to and from the basement.

15 Cf. 1946, No. 43, s. 47; 1955, No. 32, s. 23

**31. Safe place of employment**—(1) The occupier of an undertaking shall ensure—

20 (a) That where any worker is required to work in the undertaking at a place from which a fall of more than 3 m is possible, unless that place affords a secure foothold and, where necessary, secure handhold so far as is reasonably practicable, means are provided by fencing or otherwise to ensure that worker's safety; and

25 (b) That sufficient space is provided in every room in the undertaking in which workers are engaged to permit reasonable movement without the risk of injury to any worker.

30 (2) The occupier of an undertaking shall ensure that all skylights in it are either—

(a) Glazed with a **(shatterproof)** shatter-resistant material; or

35 (b) **(Protected)** Guarded to the satisfaction of an Inspector.

Cf. 1946, No. 43, s. 47; 1955, No. 32, s. 23

**32. Safety in confined spaces**—(1) Subsection (2) of this section shall apply to every chamber, tank, pipe, and confined space, that (*in the opinion of an Inspector*) falls within either or both of the following categories:

(a) A chamber, tank, pipe, or space, in which a worker may be required to go or work,— 5

(i) The temperature of the atmosphere; or

(ii) The level of electromagnetic or ionizing radiation—

within which (*may so be adjusted as to be*) is or may become likely to endanger the health of a worker trapped inside it: 10

(b) A chamber, tank, pipe, or space, in which a worker may be required to go or work, and in which fumes whether generated by work being done inside it or otherwise howsoever may be present of such a kind and in such an amount as to be likely to endanger the health of a worker inside it. 15

(2) The occupier of an undertaking in which there is situated a chamber, tank, pipe, or space, to which this subsection applies shall ensure— 20

(a) That the chamber, tank, pipe, or space, is so constructed that at all times and in all circumstances—

(i) There is an opening through which any person inside it may readily escape; or 25

(ii) A door of escape can readily be opened by any person within it, even if the door is securely locked from the outside; and

(b) That, if the chamber, tank, pipe, or space, has such an escape door, there are fixed within it permanent means of indicating the door's position, being luminous directional notices, pilot lights, or some other means approved by an Inspector. 30

(3) Subsection (4) of this section shall apply to every chamber, tank, pipe and space that, in the opinion of an Inspector, falls within the category specified in subsection (1) 35

(b) of this section.

*Struck Out*

(4) The occupier of an undertaking in which there is situated a chamber, tank, pipe, or space, to which this subsection applies shall ensure that that chamber, tank, pipe, or space is equipped with such fans, ducts, grilles, and other means of ventilation as may be necessary to dissipate any fumes that may be present in it. 40



*New*

(4) The occupier of an undertaking in which there is situated a chamber, tank, pipe, or space, to which this subsection applies shall either—

- 5 (a) Ensure that that chamber, tank, pipe, or space is equipped with such fans, ducts, grilles, and other means of ventilation as may be necessary to carry of and render harmless any fumes that may be in it; or
- 10 (b) Where, in the opinion of an Inspector, it is not practicable to comply with paragraph (a) of this subsection, supply every worker who is required to go or work in that chamber, tank, pipe, or space with self-contained breathing apparatus of a type
- 15 that is, in the opinion of an Inspector, suitable.

Cf. 1946, No. 43, s. 47; 1955, No. 32, s. 23

**33. Floors, passages, and stairs**—The occupier of an undertaking shall ensure—

- 20 (a) That all floors, steps, stairs, ramps, landings, passages, gangways, and ladders, whether or not they belong to the undertaking, that are used or likely to be used by workers are of sound construction and properly maintained; and
- 25 (b) That all steps (*and stairs*), stairs, and ramps, whether or not they belong to the undertaking, that are used or likely to be used by workers,—
- (i) Are provided with substantial handrails; and
- 30 (ii) (*If an Inspector by requisition to the occupier so directs,*) Where necessary, are provided with slats or some other means sufficient to prevent slipping; and
- 35 (c) That all openings in floors situated in the undertaking are securely fenced, except to the extent that the nature of the work done in the undertaking renders it impracticable so to fence them; and
- 40 (d) That no stairs, ramps, or passages, whether or not they belong to the undertaking, used or likely to be used by workers, are so steep, narrow, winding, intricate, insecure, or otherwise defective, as to be, in the opinion of an Inspector, unsafe; and

- (e) That every doorway and opening in the undertaking used for hoisting or lowering goods or materials, whether by mechanical power or otherwise, is securely fenced and provided with secure hand-holds on each side. 5

Cf. 1946, No. 43, s. 48; 1955, No. 32, s. 23

**34. Precautions with respect to explosive or (in)flammable dust or gas**—Where there is present in any undertaking dust or gas of such a character and to such an extent as to be liable to give rise to an explosion, or explode on ignition, the occupier of the undertaking shall take all reasonable precautions— 10

- (a) To prevent the explosion of the dust or gas by—  
 (i) The effective enclosure of all plant producing the dust or gas; and 15  
 (ii) The removal, or prevention of accumulation, of dust or gas, wherever situated in the undertaking; and  
 (iii) The exclusion or effective enclosure of all possible sources of ignition; and 20  
 (b) To restrict the spread and effects of any explosion of the dust or gas by the provision of suitable chokes, baffles, and vents, or by other equally effective appliances or measures. 25

Cf. 1946, No. 43, s. 48A.

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**35. Factories to have fire-safety certificates**—(1) The occupier of a factory shall not allow any worker to be employed in it unless— 30

- (a) A fire-safety certificate issued under subsection (3) of this section is for the time being in force in respect of the factory; or  
 (b) An application has been made for the issue of a fire-safety certificate in respect of the factory and the local authority to which the application has been made has not declined to grant the certificate. 35  
 (2) Every application for a fire-safety certificate shall be made in the prescribed form to the local authority.

(3) As soon as practicable after receiving an application under subsection (2) of this section, the local authority shall cause the factory in respect of which the application was made to be inspected and, if it is satisfied that the means of 40

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- escape and fire-alarm system comply with its requirements, it shall issue to the occupier of the factory a fire-safety certificate in the prescribed form, which shall specify in respect
- 5 of the factory—
- (a) Particulars of the means of escape; and
  - (b) Particulars of the fire-alarm system provided; and
  - (c) The number of persons normally employed in it; and
  - (d) The maximum number of persons that may be
- 10 employed in it at any one time; and
- (e) Particulars of any dangerous goods within the meaning of the Dangerous Goods Act 1974 normally stored or used in it.
- (4) If the local authority is not so satisfied, it shall serve
- 15 on the occupier of the factory a written notice in the prescribed form stating that it will decline to grant a fire-safety certificate unless specified defects are remedied within a specified time; and subject to section 28 of this Act, where those defects have not been remedied within that time, the
- 20 local authority shall be deemed to have declined to grant a fire-safety certificate for the factory.
- (5) A copy of every certificate issued under subsection (3) of this section and of every notice served under subsection (4) of this section shall be forwarded by the local authority to
- 25 an Inspector.
- (6) If at any time after issuing a fire-safety certificate in respect of any factory a local authority is not satisfied that the means of escape and fire-alarm system specified in the certificate continue to comply with the local authority's
- 30 requirements, it shall serve a written notice on the occupier of the factory; and in that case—
- (a) Subsections (4) and (5) of this section, so far as they are applicable and with the necessary modifications, shall apply to that notice as if it were a notice
- 35 under the said subsection (4); and
- (b) Subject to section 28 of this Act, that fire-safety certificate shall thereupon be deemed to have been cancelled.
- (7) Subject to subsection (8) (b) of this section, no
- 40 occupier of a factory in respect of which a fire-safety certificate has been issued shall—
- (a) Introduce changes involving—
    - (i) Any substantial increase in the number of persons employed in the factory; or

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- (ii) Any extension of, or structural alteration to, the factory; or
- (iii) The introduction of any process in which dangerous goods within the meaning of the Dangerous Goods Act 1974 will be used; or 5
- (iv) Any substantial increase in the quantity of such dangerous goods stored or used in the factory; or
- (b) Introduce any other changes whatsoever that may adversely affect the efficiency of the means of escape or fire-alarm system— 10
- unless he has given the local authority at least 1 month's written notice of his intention to do so.
- (8) The occupier of a factory may give the local authority notice of his intention to introduce a change of a kind specified in subsection (7) of this section; and in that case— 15
- (a) Subsection (3) to (5) of this section, so far as they are applicable and with the necessary modifications, shall apply to that notice and the issue of a new fire-safety certificate as if that notice were an application under subsection (2) of this section; and 20
- (b) Where a new fire-safety certificate is issued in respect of the factory, that change may be introduced accordingly. 25
- (9) If an Inspector has reason to believe that the means of escape or the fire-alarm system in any factory are or is inadequate, he may notify the local authority in writing of the reasons for his belief.
- (10) Upon receipt of a notice under subsection (9) of this section, the local authority shall cause the factory to be inspected, and if it is not satisfied that the means of escape and fire-alarm system comply with its requirements, subsection (6) of this section shall apply accordingly. 30
- (11) Any local authority may from time to time make bylaws prescribing the fee payable by occupiers of factories for the issue of fire-safety certificates. 35
- (12) In respect of every factory operated by the Crown, every reference in this section (other than in subsection (11) of this section) to a local authority shall be read as a reference to the Commissioner of Works. 40

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**36. Fire-safety precautions in factories—**(1) The occupier of a factory shall ensure that every means of escape specified in the fire-safety certificate for the time being in force in  
5 respect of the factory is—

(a) Maintained in good order and repair; and

(b) At all times kept free from obstruction.

(2) The occupier of a factory shall ensure that, while workers are actually working in any room in the factory,—

10 (a) Every door of the room; and

(b) Every door of any passage or staircase leading to the room or serving as a means of entrance to or exit from the room; and

15 (c) The outer or entrance door by which workers employed in the factory usually enter or leave the factory,— whether or not the door is part of the factory, are kept clear and unlocked, so as to allow quick and easy egress.

(3) The occupier of a factory shall ensure that there is provided in the factory, to the satisfaction of an Inspector,  
20 adequate and suitable fire-fighting equipment that is readily accessible at all times.

Cf. 1946, No. 43, s. 53A

**37. Service of notices, appeals etc., in respect of fire-safety certificates—**(1) The provisions of sections 63 and 64 of this  
25 Act shall, with the necessary modifications, apply in respect of every notice served by a local authority under section 35 of this Act as if it were a requisition.

(2) The provisions of section 368 of the Municipal Corporations Act 1954 shall not apply in respect of any work  
30 to which section 63 of this Act, as applied by subsection (1) of this section, applies.

Cf. 1946, No. 43, s. 53B

**38. Codes of practice—**(1) The Chief Inspector of Factories may from time to time issue recommendations as to safety  
35 practices (in this section and sections 39 and 40 of this Act referred to as codes of practice) in respect of all undertakings, or in respect of undertakings of specified kinds; and may from time to time amend or revoke any such recommendation.

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(2) Without limiting the generality of subsection (1) of this section, a code of practice may include a description of any commodity, process, or practice, by reference to its nature, quality, strength, purity, composition, quantity, dimension, weight, grade, durability, origin, age, or other characteristic whatsoever, and may also include a glossary of terms, definitions, and symbols, or any of them. 5

Cf. 1959, No. 32, s. 18A

**39. Codes of practice to be approved by Minister—** 10  
 (1) Subject to subsection (4) of this section, no code of practice, and no amendment or revocation of a code shall have any force or effect until it has been approved by the Minister. 15

(2) The Minister shall not approve any code of practice, or any amendment or revocation of a code of practice, unless— 15

(a) Not less than 1 month has elapsed since the publication in the *Gazette* of a notice of the intention of the Chief Inspector of Factories to apply for approval; 20  
 and

(b) Such persons as the Minister considers will be affected by the code of practice or its amendment or revocation, or representatives of those persons, have had an opportunity to consider its possible effects and to comment on those effects to the Minister; 25  
 and

(c) The Minister has considered any comments made to him concerning those effects.

(3) Where the Minister approves a code of practice, or an amendment or revocation of a code of practice, he shall— 30

(a) Publish a notice of his approval in the *Gazette*; and

(b) Cause that code of practice, amendment, or revocation, to be promulgated in such manner as he thinks fit.

(4) The fact that a Minister has published in the *Gazette* a notice under subsection (3) (a) of this section shall be conclusive evidence that the requirements of this section have been complied with in respect of the approval specified in the notice. 35

Cf. 1959, No. 32, s. 18B

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**40. Citation and proof of codes of practice—**(1) In any regulations made under this Act, any code of practice or amendment of a code of practice may, without prejudice to

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any other mode of citation, be cited by the title or reference given to it by the Chief Inspector of Factories, and by its date of issue; and any such citation shall be deemed to include  
5 and refer to the latest code of practice or amendment in existence when the regulations were made.

(2) Without affecting any other method of proof, the production in any proceedings of a copy of any code of practice or amendment of a code of practice, purporting to  
10 be issued by the Chief Inspector of Factories shall, in the absence of proof to the contrary, be sufficient evidence that it has been issued under the authority of section 38 of this Act and that it has been approved by the Minister under section 39 of this Act.

15 Cf. 1959, No. 32, s. 18c

**41. Record of accidents**—(1) Subject to subsection (2) of this section, the occupier of an undertaking shall keep in that undertaking a register, in the same form as that prescribed by regulations made under the Industrial Relations  
20 Act 1973 for a register of accidents; and shall enter in or attach to the register the particulars so prescribed of every accident of which he has knowledge occurring to any person in or about that undertaking, whether or not that person is employed there.

25 (2) The occupier of an undertaking who has complied with the requirements of section 220 of the Industrial Relations Act 1973 in relation to any such accident shall be deemed to have complied with the requirements of subsection (1) of this section in relation to that accident.

30 Cf. 1946, No. 43, s. 17; 1955, No. 32, s. 26A

**42. Notification of serious accidents**—(1) In this section, “serious injury or illness” means injury or illness of such a nature as to be likely to render a person incapable of working for 48 hours or more.

35 (2) Where there occurs in or about an undertaking an accident that causes death or serious injury or illness to any person, the occupier of that undertaking shall forthwith, and in any event not later than 48 hours after the occurrence, give an Inspector written notice of the occurrence.

40 (3) Every notice under subsection (2) of this section shall specify—

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- 
- (a) The name, place of residence, and age, of every person killed or suffering serious injury or illness as a result of the accident concerned; and
- (b) The place to which each such person has been removed; and 5
- (c) The nature and circumstances of the accident; and
- (d) Such details as are sufficient to enable an Inspector to locate with accuracy the place where the accident occurred. 10
- (4) If the Inspector to whom a notice under subsection (2) of this section has been given thinks the accident concerned should be investigated, he shall, as soon as practicable after receiving the notice, make a full inquiry into the nature and cause of the accident and the nature and extent of the injury and illness it caused. 15

Cf. 1955, No. 32, s. 26B

## PART VI

## HEALTH AND WELFARE

- 
- 43. Cleanliness**—(1) The occupier of an undertaking shall ensure that that undertaking is kept clean, free from any nuisance, and free from any smell or leakage from any drain or sanitary convenience. 20
- (2) Without limiting the generality of subsection (1) of this section, the occupier of an undertaking shall ensure that— 25
- (a) Accumulations of dirt and refuse are removed daily by a suitable method from the floors and benches of all workrooms, and from the stairways and passages, of that undertaking; and 30
- (b) The floors of all workrooms in that undertaking are washed or, if it is effective and suitable, cleaned by sweeping or some other appropriate method, at least once in every week; and
- (c) There is provided in that undertaking a sufficient number of suitable receptacles for waste and refuse, each provided with a cover if necessary; and 35
- (d) Every receptacle provided under paragraph (c) of this subsection is regularly emptied.

Cf. 1946, No. 43, s. 54; 1955, No. 32, s. 23



**44. Overcrowding and airspace**—(1) The occupier of an undertaking shall ensure that no part of that undertaking is so crowded as to cause the risk of injury to the health of workers.

5 (2) Without limiting the generality of subsection (1) of this section, a room in an undertaking shall be deemed to be crowded as aforesaid if the volume of the room, measured in accordance with subsection (3) of this section, is less than  
10 a volume calculated on the basis of 12 m<sup>3</sup> for each of the workers employed in it at any one time.

(3) In calculating the volume of any room for the purposes of subsection (2) of this section,—

(a) No space shall be taken into account unless it is kept  
15 properly lit and ventilated, and kept clear from all materials, goods, and tools, other than those actually used or required by the persons employed in the room; and

(b) No space more than 4 m from the floor shall be taken into account; and

20 (c) Any gallery (forming part of) or mezzanine floor forming part of the room or opening onto the room shall be treated as if it were partitioned off from the remainder of the room and formed a separate room.

Cf. 1946, No. 43, s. 55; 1955, No. 32, s. 23

25 **45. Ventilation**—The occupier of an undertaking shall ensure that each room in the undertaking is so ventilated as to—

(a) Provide a supply of fresh air sufficient for the workers using the room; and

30 (b) Carry off and render harmless, so far as is practicable, all steam, fumes, dust, and other impurities, arising in the course of the work done in that undertaking.

Cf. 1946, No. 43, s. 56(1); 1955, No. 32, s. 23

35 **46. Removal of steam, fumes, and dust**—(1) The occupier of an undertaking in which any process is carried on that gives off—

(a) Any steam, fume, dust, or other impurity, of such  
40 a character and to such an extent as to be likely to be injurious or offensive to any worker employed in that undertaking; or

(b) Any substantial quantity of dust of any kind— shall take all practicable steps to ensure that the workers are protected against inhalation of that steam, fume, dust, or impurity, and that it is prevented from accumulating in any workroom. 5

(2) Without limiting the generality of subsection (1) of this section, where the nature of any process giving off any steam, fume, dust, or impurity, as aforesaid carried on in an undertaking makes the provision of such appliances practicable, the occupier of that undertaking shall provide and maintain, as near as possible to the point of origin of the steam, fume, dust, or impurity, exhaust appliances that prevent the steam, fume, dust, or impurity, from entering the workrooms situated in that undertaking. 10

Cf. 1946, No. 43, s. 56(2); 1955, No. 32, s. 23 15

**47. Lighting**—(1) The occupier of an undertaking shall ensure that—

(a) There is sufficient and suitable lighting, whether natural or artificial, in every part of that undertaking where workers are employed or pass; and 20

(b) All artificial lights in that undertaking are so placed and shaded that no worker is subjected to any avoidable glare; and

(c) Subject to subsection (2) of this section and to section 31 (2) of this Act, all glazed windows and skylights used for the lighting of workrooms situated in that undertaking are, as far as practicable, kept free from obstruction, and clean on both their inner and their outer surfaces. 25

(2) Subsection (1) (c) of this section shall not prevent— 30

(a) The application of any material to any window or skylight; or

(b) The provision of any blind, shade, or curtain— for the purpose of reducing heat or glare.

Cf. 1946, No. 43, s. 57; 1955, No. 32, s. 23 35

**48. Atmospheric conditions**—(1) Subject to subsection (2) of this section, the occupier of an undertaking shall ensure that there are provided in each workroom situated in that undertaking means that are, having regard to the processes and activities carried on in that workroom, effective and suitable so to control— 40

- (a) The temperature; and
- (b) The humidity arising from any process or activity carried on in that undertaking; and
- (c) The air velocity; and
- 5 (d) The amount of radiant heat; and
- (e) The quantity of fresh air—

in that workroom as to ensure that workers employed in that workroom work in reasonably comfortable atmospheric conditions.

- 10 (2) The occupier of an undertaking shall not use any method of heating a workroom in that undertaking that results in the escape into that undertaking of any fumes of such a character and to such an extent as to be likely to be injurious or offensive to any worker.

- 15 Cf. 1946, No. 43, s. 58; 1955, No. 32, s. 23

**49. Sanitary conveniences**—(1) The occupier of an undertaking shall provide for workers sufficient and suitable sanitary conveniences; and where members of both sexes (not being members of the same family) are employed in that

20 undertaking, he shall provide separate conveniences for each sex, so constructed and situated as to ensure privacy for workers using them.

- (2) The occupier of an undertaking shall ensure that the sanitary conveniences provided by him for persons employed
- 25 in or about that undertaking—

- (a) Are conveniently accessible to workers; and
- (b) Are properly ventilated and lit; and
- (c) Are built of impervious material or material that can be cleaned easily; and
- 30 (d) Are properly maintained and kept clean; and
- (e) Do not open directly into workrooms.

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- (3) Notwithstanding subsection (1) of this section, but subject to subsection (4) of this section, an Inspector may,
- 35 if in all the circumstances he thinks fit, authorise in writing the occupier of an undertaking in or about which fewer than 10 persons are employed or engaged, to dispense with the requirement to provide separate conveniences for each sex; and in that case that occupier shall not be obliged to provide
- 40 such conveniences.

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(4) An Inspector shall not give an authorisation under subsection (3) of this section unless he is satisfied, in relation to the conveniences provided for workers by the occupier of the undertaking concerned, that—

5

*New*

(3) Notwithstanding subsection (1) of this section, it shall not be necessary for the occupier of an undertaking in or about which fewer than 10 persons are employed or engaged to provide separate conveniences for each sex, if—

10

- (a) Each convenience provided is completely enclosed; and
- (b) Each convenience provided has an efficient inside lock; and
- (c) Provision to the satisfaction of an Inspector is made for the disposal of sanitary towels.

Cf. 1946, No. 43, s. 59; 1955, No. 32, s. 23

**50. Drainage of floors**—Where any process is carried on in an undertaking that renders the floor liable to be wet to such an extent that the wet is capable of being removed by draining, the occupier of that undertaking shall provide and maintain effective means for draining off the wet (*and protecting workers.*)

20

Cf. 1946, No. 43, s. 60; 1955, No. 32, s. 23

**51. Drinking water**—(1) The occupier of an undertaking shall provide an adequate supply of wholesome drinking water for the free use of workers.

25

(2) Except where the water is delivered in inclined upward jets from which workers can conveniently drink, the occupier of an undertaking shall provide 1 or more suitable cups or drinking vessels at each point of supply, together with facilities for rinsing it or them in drinking water.

30

Cf. 1946, No. 43, s. 61; 1955, No. 32, s. 23

**52. Washing facilities**—The occupier of an undertaking shall provide and maintain for the use of workers, adequate, suitable, and conveniently accessible facilities for washing (including soap and clean towels, or other suitable means of cleaning and drying); and shall keep those facilities in a clean and orderly condition.

35

Cf. 1946, No. 43, s. 62; 1955, No. 32, s. 23

40

53. **Accommodation for clothing**—The occupier of an undertaking shall provide and maintain, for the use of workers, adequate and suitable accommodation for clothing not worn during working hours; and shall also provide either such  
5 arrangements as are reasonably practicable or, where a standard is prescribed, such arrangements as are prescribed, for the drying of such clothing.

Cf. 1946, No. 43, s. 63(1); 1955, No. 32, s. 23

54. **Facilities for sitting**—The occupier of an undertaking  
10 shall provide and maintain, for the use of workers whose work is done standing, suitable facilities for sitting sufficient to enable them to take advantage of any opportunity for resting that may occur in the course of their employment.

Cf. 1946, No. 43, s. 64(1); 1955, No. 32, s. 23

15 55. **First-aid facilities**—The occupier of an undertaking shall provide and maintain first-aid facilities, appliances and requisites, either to the satisfaction of an Inspector or, where a standard is prescribed, in compliance with that standard.

Cf. 1946, No. 43, s. 65

20 *New*

55A. **Facilities for rest**—The occupier of an undertaking  
in or about which more than 6 persons are employed shall ensure that there is in that undertaking a place, maintained to  
the satisfaction of an Inspector, that is suitable for any such  
25 person who is indisposed to rest in.

Cf. 1946, No. 43, s. 66

*Struck Out*

56. **Protection from harmful noise**—If, in the opinion of a  
30 Medical Officer of Health, the noise arising from any process or activity carried on in or about an undertaking is likely to impair the hearing of any worker, the occupier of that undertaking shall take all practicable steps so to reduce that noise that it is no longer likely to do so, either by controlling it at  
35 source or by isolating or insulating the process or activity; and until that noise is so reduced, or if in the opinion of an Inspector it is impracticable so to reduce it, the occupier of that undertaking shall provide every worker who is exposed to that noise with a personal ear protection device of a type approved by the Director-General of Health.

*New*

**56. Protection from harmful noise**—(1) The occupier of an undertaking shall take all practicable steps, by either—

(a) Controlling at source the noise arising from the processes and activities carried on in or about that undertaking; or 5

(b) Isolating or insulating those processes and activities,— to ensure that no worker employed in or about that undertaking is exposed to any noise so arising that would be likely to impair his hearing if he were not using a hearing-protection device. 10

(2) Where a worker employed in or about an undertaking is exposed to any noise (being noise arising from the processes and activities carried on in or about that undertaking) that would be likely to impair his hearing if he were not using a hearing-protection device, the occupier of that undertaking shall provide that worker with an individual hearing-protection device of a type approved by the Director-General of Health. 15

Cf. 1946, No. 43, s. 67A; 1977, No. 43, s. 56 (3) 20

*Struck Out*

**57. Meals in undertakings**—(1) Subject to subsections (2) and (3) of this section, the occupier of an undertaking shall ensure that no person partakes of a meal in any room in that undertaking where— 25

(a) Any manufacturing process or handicraft is being, or within 2 hours has been, carried on; or

(b) Any person is, or within 2 hours has been, engaged in any work.

(2) Subject to section 58 (1) of this Act, a worker engaged in or about an undertaking on any work or continued process of such a nature that he must during his working hours remain in its vicinity may to that extent partake of a meal in the room in which that work or process is carried on. 30 35

(3) Subject to section 58 (1) of this Act, where no more than 6 persons are employed or engaged in an undertaking, those persons may, during any interval for a meal to which

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they are under this Act entitled, take meals and remain in any workroom in that undertaking for the time being approved by an Inspector in that behalf.

5 (4) Except as provided in subsections (2) and (3) of this section, the occupier of an undertaking shall ensure that no worker who under this Act is entitled to an interval for a meal remains in any workroom in that undertaking during that interval.

10 (5) Subject to subsection (6) of this section, the occupier of an undertaking in or about which more than 6 persons are employed or engaged shall provide *(and maintain)*, maintain, and keep clean either—

- 15 (a) A suitable room within that undertaking; or  
(b) Where an Inspector is satisfied that a place of shelter within that undertaking is adequate for the purpose and sufficiently secure from the weather and from public view, such a place—

20 for those persons to take meals in.

(6) To the extent that an Inspector is satisfied that persons employed or engaged in or about an undertaking can conveniently have meals in their own homes or can otherwise provide their own accommodation for meals, he may, by written notice to the occupier of that undertaking, modify the application of subsection (5) of this section to that undertaking and its occupier; and in that case that subsection shall apply accordingly.

30 (7) In order to ensure that meals are taken with reasonable comfort and security, the occupier of an undertaking shall ensure that every room and shelter provided in that undertaking pursuant to this section is—

- (a) Furnished and equipped to the satisfaction of an Inspector with seats and tables; and  
35 (b) Kept so furnished and equipped; and  
(c) Not used for the storage of materials or goods.

Cf. 1946, No. 43, s. 69; 1955, No. 32, s. 23

*Struck Out*

**58. No meals where noxious process carried on**—The occupier of an undertaking shall ensure that no worker takes any meal in any room or place in or about that undertaking where any noxious handicraft, process, or employment is being, or within 12 hours has been, carried on. 5

*New*

**58. No meals where noxious process carried on**—The occupier of an undertaking shall ensure that no person takes any meal in any place in that undertaking— 10

(a) While any noxious handicraft, process, or employment is being carried on in that place; or

(b) If the carrying on in that place of any noxious handicraft, process, or employment has rendered that place unsuitable for the taking of meals. 15

Cf. 1946, No. 43, s. 70

*Struck Out*

**59. Duties of persons employed in undertakings**—(1) No person employed in or about an undertaking shall without reasonable cause do anything likely to endanger himself or any other person. 20

(2) No person employed in or about an undertaking shall without reasonable cause interfere with or misuse any appliance, apparatus, clothing, convenience, device, equipment, guard, or other thing whatsoever, provided for securing the health, safety, or welfare, of persons employed in or about that undertaking. 25

(3) Every person employed in or about an undertaking shall, so often as the circumstances for which it is provided arise, use any appliance, apparatus, clothing, convenience, device, equipment, or thing, as aforesaid. 30

Cf. 1946, No. 43, s. 74

*New*

**59. Codes of practice**—(1) The Chief Inspector may from time to time issue recommendations as to— 35

(a) Safety practices; or



*New*

- (b) The functions and procedures of safety and health committees established pursuant to regulations made under this Act; or
- 5 (c) Both of those matters—  
in respect of all undertakings, or in respect of undertakings of specified kinds, or in respect of specified processes or activities carried on in undertakings; and may from time to time amend or revoke any such recommendation.
- 10 (2) Without limiting the generality of subsection (1) of this section, a code of practice may include a description of any commodity, phenomenon, process, or practice, by reference to its nature, quality, strength, purity, composition, quantity, dimension, weight, grade, durability, origin, age,
- 15 intensity, duration, or other characteristic whatsoever, or any 2 or more of them, and may also include a glossary of terms, definitions, and symbols, or any of them.

Cf. 1959, No. 32, s. 18A

**59A. Codes of practice to be approved by Minister—**  
20 (1) Subject to subsection (4) of this section, no code of practice, and no amendment or revocation of a code shall have any force or effect until it has been approved by the Minister.

(2) The Minister shall not approve any code of practice, or any amendment or revocation of a code of practice,  
25 unless—

- (a) Not less than 1 month has elapsed since the publication in the *Gazette* of a notice of the intention of the Chief Inspector to apply for approval; and
- 30 (b) The Minister has consulted such persons as he considers will be affected by the code of practice or its amendment or revocation, or representatives of those persons, and they have had an opportunity to consider its possible effects and to comment on those effects to the Minister; and
- 35 (c) The Minister has considered any comments made to him concerning those effects.

(3) Where the Minister approves a code of practice, or an amendment or revocation of a code of practice, he shall—  
(a) Publish a notice of his approval in the *Gazette*; and  
40 a notice under subsection (3) (a) of this section shall be conclusive evidence that the requirements of this section

*New*

have been complied with in respect of the approval specified in the notice.

(b) Cause that code of practice, amendment, or revocation, to be promulgated in such manner as he thinks fit. 5

(4) The fact that a Minister has published in the *Gazette*

(5) Where any person is charged with an offence in respect of a failure to comply with any provision of this Part of this Act, and it is proved that there was in existence at the time of the alleged failure a code of practice relating to matters of the kind to which that provision relates,— 10

(a) Evidence that that code of practice was in all relevant respects complied with shall be rebuttable evidence that that person complied with that provision; and 15

(b) Evidence that that code of practice was in one or more relevant respects not complied with shall be rebuttable evidence that that person failed to comply with that provision.

Cf. 1959, No. 32, s. 18B 20

**59b. Citation and proof of codes of practice—**(1) In any regulations made under this Act, any code of practice or amendment of a code of practice may, without prejudice to any other mode of citation, be cited by the title or reference given to it by the Chief Inspector, and by its date of issue; and any such citation shall be deemed to include and refer to the latest code of practice or amendment in existence when the regulations were made. 25

(2) Without affecting any other method of proof, the production in any proceedings of a copy of any code of practice or amendment of a code of practice, purporting to be issued by the Chief Inspector shall, in the absence of proof to the contrary, be sufficient evidence that it has been issued under the authority of section 59 of this Act and that it has been approved by the Minister under section 59A of this Act. 35

Cf. 1959, No. 32, s. 18c

**59c. Record of accidents—**(1) Subject to subsection (2) of this section, the occupier of an undertaking shall keep in that undertaking a register, in the same form as that

*New*

prescribed by regulations made under the Industrial Relations Act 1973 for a register of accidents; and shall enter in or attach to the register the particulars so prescribed of every accident of which he has knowledge occurring to any person in or about that undertaking, whether or not that person is employed there.

(2) The occupier of an undertaking who has complied with the requirements of section 220 of the Industrial Relations Act 1973 in relation to any such accident shall be deemed to have complied with the requirements of subsection (1) of this section in relation to that accident.

Cf. 1946, No. 43, s. 17; 1955, No. 32, s. 26A

**59D. Notification of serious accidents—**(1) In this section, “serious injury or illness” means injury or illness of such a nature as to be likely to render a person incapable of working for 48 hours or more.

(2) Where there occurs in or about an undertaking an accident that causes death or serious injury or illness to any person, the occupier of that undertaking shall forthwith, and in any event not later than 48 hours after the occurrence, give an Inspector written notice of the occurrence.

(3) Every notice under subsection (2) of this section shall specify—

- (a) The name, place of residence, and age, of every person killed or suffering serious injury or illness as a result of the accident concerned; and
- (b) The place to which each such person has been removed; and
- (c) The nature and circumstances of the accident; and
- (d) Such details as are sufficient to enable an Inspector to locate with accuracy the place where the accident occurred.

(4) If the Inspector to whom a notice under subsection (2) of this section has been given thinks the accident concerned should be investigated, he shall, as soon as practicable after receiving the notice, make a full inquiry into the nature and cause of the accident and the nature and extent of the injury and illness it caused.

Cf. 1955, No. 32, s. 26B

PART (VII) VI

## REQUISITIONS

**60. Inspector may require occupier of undertaking to take action**—(1) An Inspector may, by requisition in the prescribed form under his hand to the occupier of an undertaking, require that occupier to do all or any of the following things: 5

- (a) Comply with any specified provision of this Act imposing any requirement as to safety, health, or welfare with which, in the opinion of the Inspector, that occupier is not complying: 10
- (b) Comply sufficiently with any such provision with which, in the opinion of the Inspector, that occupier is not complying sufficiently:
- (c) Remedy any specified defect that, in the opinion of the Inspector, exists in that undertaking or in any process or procedure carried on in it, being a defect that, in his opinion, constitutes a danger to workers: 15
- (d) Repair or safeguard, in such manner as the Inspector requires, any specified equipment or appliance in that undertaking that, in the opinion of the Inspector, constitutes a danger to workers for so long as it is not so repaired or safeguarded: 20
- (e) Allow in any workroom in that undertaking, such amount of space for each worker, calculated in accordance with section 44 (3) of this Act (being an amount exceeding  $12\text{ m}^3$ ) as, in the opinion of the Inspector, the circumstances pertaining to that workroom require: 25
- (f) Provide gratings (*or duckboards*), duckboards, protective footwear, or any of them in any case to which section 50 of this Act applies: 30
- (g) Instal and maintain additional lighting in that undertaking, or vary the existing lighting arrangements in that undertaking, or make provision for cleaning the lighting apparatus in that undertaking: 35
- (h) Provide an adequate supply of hot water as part of the facilities required to be provided in that undertaking by section 52 of this Act:
- (i) Provide suitable seats in that undertaking for workers who, in the opinion of the Inspector, can conveniently and satisfactorily do their work, or a substantial part of it, sitting: 40

- (j) Provide and maintain in that undertaking (being an undertaking in or about which there are employed more than 100 workers (are employed) who require to have meals at that undertaking) a canteen at which all workers may purchase meals:
- 5
- (k) Subject to subsection (2) of this section, abate, remedy, or remove any nuisance or sanitary defect in any building, yard, or place, adjacent to that undertaking and under the control of the occupier of that undertaking (being a nuisance or sanitary defect that, in the opinion of the Inspector, is likely to affect injuriously the proper sanitation of that undertaking or the health of workers):
- 10
- (l) Subject to subsection (2) of this section, abate, remedy, or remove any nuisance or sanitary defect in that undertaking (being a nuisance or sanitary defect that, in the opinion of the Inspector, is likely to affect injuriously the proper sanitation of that undertaking or of any premises adjacent to that undertaking or the health of workers or of persons employed in or about or residing in any such premises):
- 15
- (m) Paint, clean, or institute a satisfactory regular system of cleaning, that undertaking.
- 20
- (2) No Inspector shall issue a requisition under paragraph (k) or paragraph (1) of subsection (1) of this section unless—
- 25
- (a) He has first notified the appropriate local authority of the nuisance or defect concerned; and
- (b) That local authority has failed within a reasonable time to cause that defect or nuisance to be abated, remedied, or removed.
- 30

Cf. 1946, No. 43, ss. 50, 55 (2), 60 (2), 62 (2), 64 (2), 69 (6), 76; 1955, No. 32, s. 24

- 61. Proceedings as to nuisances and sanitary defects under other Acts—**(1) Where it appears to an Inspector that any nuisance or sanitary defect in respect of which he has power to issue a requisition may more effectually be dealt with under any enactment relating to public health or local government, he shall give notice of that nuisance or defect to the appropriate local authority; and in that case it shall be the duty of that local authority to take all necessary action under the enactment concerned to cause that nuisance or defect to be abated, remedied, or removed; and if that local authority has
- 35
- 40

failed to act within 7 days of being given notice, the Inspector shall give notice of the matter to a Medical Officer of Health.

(2) For the purposes of this section and paragraphs (k) and (l) of section 60 (1) of this Act, an Inspector shall have the same powers of entry and inspection in relation to any building, yard, or place adjacent to an undertaking and under the control of the occupier of that undertaking as he has in relation to that undertaking. 5

Cf. 1946, No. 43, s. 77

**62. Service of requisitions—**(1) A requisition to the occupier of an undertaking may be addressed to and served on him under either his or its own name or his or its usual business name or style. 10

(2) A requisition to the occupier of an undertaking may be served either— 15

(a) By delivering it to any person who is an occupier of that undertaking within the meaning of this Act; or

(b) By posting it by registered letter to the occupier at the undertaking. 20

(3) A requisition posted as aforesaid shall be deemed to have been served on the occupier of the undertaking concerned at the time when a registered letter so posted would, in the ordinary course of post, have been delivered.

(4) A requisition served in accordance with this section on the occupier of an undertaking shall be deemed so to have been served on all occupiers of that undertaking, and shall bind them accordingly. 25

Cf. 1946, No. 43, s. 82; 1955, No. 32, s. 25

**63. Appeals against requisitions—**(1) The occupier of an undertaking who considers any requisition served on him to be unreasonable may appeal against it to a District Court Judge by— 30

(a) Filing, within 14 days of the service of the requisition, in the District Court nearest that undertaking a notice of appeal in the prescribed form, setting out with reasonable particularity the grounds of the appeal; and 35

(b) Serving a copy of that notice on an Inspector.

(2) When a notice under subsection (1) of this section has been filed, the Judge shall fix a time (being the earliest convenient time) and place for the hearing of the 40

appeal; and the Registrar of the Court shall, by notice in the prescribed form, inform the appellant and the Inspector concerned of that time and place.

- 5 (3) On the hearing of an appeal under this section, the Judge may by order confirm, reverse, or modify the requisition concerned, as he thinks fit; and that order shall be final and binding on all parties.

Cf. 1946, No. 43, s. 83; 1955, No. 32, s. 26

- 10 64. Liability of owner as to cost of alterations—(1) Where the occupier of an undertaking—

(a) Is not the owner of any building in which it is situated; and

- 15 (b) Has been duly served with a requisition that, in his opinion, cannot be complied with without alteration to that building,—

- he may, within 14 days of the service of the requisition serve a copy of it on the owner of that building or his agent; and in that case he shall be entitled to recover from that owner as a debt due, in any Court of competent jurisdiction, such part of the cost of making that alteration as, 20 in the opinion of the Court, is just and equitable having regard to all the circumstances.

- (2) The owner of any building, or his agent, who has been served under subsection (1) of this section with a copy of a requisition shall have the same right to appeal 25 against it as the occupier of the undertaking concerned; and section 63 of this Act, so far as it is applicable and with the necessary modifications, shall apply to him accordingly.

Cf. 1946, No. 43, s. 81; 1955, No. 32, s. 27

## PART (VIII) VII

### 30 OFFENCES AND PENALTIES

65. Offences—(1) Every person commits an offence against this Act who—

*New*

- 35 (aa) Personates the Inspector named in any certificate of appointment as an Inspector or Trainee Inspector of Factories, or falsely pretends to be an Inspector or Trainee Inspector of Factories; or

- (a) Refuses to allow any Inspector to exercise any of his powers under section 5 (1) of this Act in respect of that undertaking; or
- 5 (b) Obstructs or without reasonable cause delays any Inspector in the exercise or attempted exercise of any such power; or

*Struck Out*

- 10 (c) Personates the Inspector named in any certificate of appointment as an Inspector or Trainee Inspector of Factories, or falsely pretends to be an Inspector or Trainee Inspector of Factories; or

*New*

- 15 (c) Being the employer of any person employed in or about an undertaking who within the previous 12 months—

(i) Was entitled to some benefit under this Act, or had or made or caused to be made a claim for any such benefit for himself or another person so employed, or supported any such claim, whether by giving evidence or otherwise; or

20 (ii) Alleged to any Inspector, whether orally or in writing, that any offence against this Act had been, was being, or was about to be, committed; or

25 (iii) Gave evidence in any proceedings under this Act,—

dismisses or suspends that person, or alters that person's position in the employment of that employer to that person's disadvantage:

- 30 (d) Conceals or prevents, or attempts to conceal or prevent, any person from appearing before and being examined by an Inspector; or

*Struck Out*

- 35 (e) Demands or accepts any premium for the employment of any person in any undertaking; or

(f) Acts in contravention of, or fails or refuses duly and faithfully to observe or comply with, any requirement, obligation, rule, or provision, imposed or enacted or required to be observed, under this Act; or

- 40 (g) Fails or refuses to comply with any requisition—  
(i) Within the time specified in the requisition; or



- (ii) Within the time fixed by a District Court Judge on appeal; or  
 (iii) If no time is so specified or fixed, within a reasonable time,—  
 5 as the case may be; or  
 (h) Being an Inspector, or a Trainee Inspector of Factories, discloses any information contrary to section 5 (4) of this Act; or

*New*

- 10 (ha) Demands or accepts any premium for the employment of any person in any undertaking; or  
 (i) Fails to exhibit, or to exhibit in accordance with this Act, any notice required by this Act to be exhibited; or  
 15 (j) Fails to produce any document that he is under this Act required to produce; or  
 (k) Fails to keep or maintain any book, register, or record, required by this Act to be kept by him, or to maintain in accordance with this Act any such  
 20 book, register, or record; or  
 (l) Fails or refuses to comply with an order under section 67 of this Act within the time specified in that behalf; or  
 25 (m) Occupies a factory that is not duly registered under this Act.

*New*

- (2) Where any person is charged with an offence against paragraph (c) of subsection (1) of this section, it shall be a sufficient defence if he proves that, as the case may require,  
 30 the dismissal of the employee concerned, his suspension, or the alteration of his position, was for reasons other than his entitlement to any benefit under this Act or his having done any of the things described in subparagraphs (i) to (iii) of that paragraph.

- 35 **66. Penalties**—(1) Every person who commits an offence against this Act shall be liable on summary conviction—

*New*

- 40 (aa) In the case of an offence against section 65 (aa) of this Act, to imprisonment for a term not exceeding 6 months:

- (a) In the case of an offence (**under**) against any of para-  
graphs (a) to (h) of section 65 of this Act or under  
any regulation made under this Act, to a fine not  
exceeding ~~(\$2,000)~~ \$5,000 and, in the case of a con- 5  
tinuing offence, to a further fine not exceeding  
~~(\$100)~~ \$250 for every day or part of a day on which  
the offence has continued:
- (b) In the case of an offence against any of paragraphs  
(i) (ha) to (m) of section 65 of this Act, to a fine  
not exceeding ~~(\$100)~~ \$250 for every day or part 10  
of a day on which the offence has continued.
- (2) Where—
- (a) The occupier of an undertaking is convicted of an  
offence under paragraph (f) or paragraph (g) of  
section 65 of this Act in respect of any provision 15  
contained in Part (III) V of this Act, or in respect  
of any regulation made under section 75 (2) of this  
Act; and
- (b) In the opinion of the Court, as a result of the act,  
failure, or refusal, that constituted that offence, an 20  
accident occurred causing death or bodily injury  
to any other person,—
- the reference to the sum of ~~(\$2,000)~~ \$5,000 in subsection (1)  
(a) of this section shall be deemed to be a reference to the  
sum of ~~(\$4,000)~~ \$10,000; and such part (not exceeding 25  
~~(\$2,000)~~ \$5,000) as the Minister thinks fit of the fine imposed  
upon that first-mentioned person in respect of that offence  
shall be applied, in such manner as the Minister directs, for  
the benefit of that second-mentioned person or, where he is  
dead, for the benefit of his family and dependents. 30

**67. Power to order contravention to be remedied—**(1) In  
any proceedings against the occupier of an undertaking in  
respect of the non-observance of or non-compliance with a  
requirement, obligation, rule, or provision, under any of  
Parts III to (VI) V of this Act, the District Court Judge, in 35  
addition to or instead of imposing a fine, may by order require  
the defendant to do any specified work, or to adopt any  
specified means, for the purpose of preventing the further  
non-observance of or non-compliance with that requirement,

obligation, rule, or provision, and shall specify a time within which that order is to be obeyed.

(2) Any time specified under subsection (1) of this section may from time to time be extended by the District Court  
5 Judge on the application of the defendant.

(3) Where a District Court Judge makes an order under subsection (1) of this section instead of imposing a fine, he shall adjourn the proceedings until the time specified in the order; and if the order is obeyed he may, if he thinks fit,  
10 impose no penalty in respect of the offence concerned.

Cf. 1946, No. 43, s. 87

**68. Occupier may have actual offender charged—**

(1) Where the occupier of an undertaking is charged with an offence under this Act, he shall be entitled upon infor-  
15 mation duly laid by him to have any other person whom he alleges to be the actual offender brought before the District Court Judge on the same charge; and to enable both charges to be heard together, the charge against the occupier may be adjourned for such time as the District Court Judge  
20 thinks reasonable.

(2) In any such case, if the charges are heard together and the offence is proved but the District Court Judge finds that—

(a) The offence was committed in fact by the said other  
25 person, without the consent or connivance of the occupier; and

(b) That the occupier had done all that could reasonably be expected of him to prevent the offence,—  
that other person shall be convicted of the offence, and the  
30 occupier shall not be guilty of the offence.

(3) If, before the commencement of any proceedings against the occupier of an undertaking in respect of any offence under this Act, an Inspector is satisfied that if any other person were charged with the offence under the fore-  
35 going provisions of this section that other person would be convicted of the offence, the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier; and in any such case the provisions of subsection (2) of this section  
40 shall, with the necessary modifications, apply notwithstanding that no proceedings have been commenced against the occupier.

Cf. 1946, No. 33, s. 90

**69. Proceedings to be before District Court Judge alone—**

(1) All proceedings in respect of offences or matters of complaint under this Act shall be taken in a summary manner and shall be heard before a District Court Judge alone.

(2) Except as provided in (section 70) section 68 of this Act, all such proceedings as aforesaid shall be taken only on the information or complaint of an Inspector. 5

Cf. 1946, No. 33, s. 91; 1955, No. 32, s. 39

**70. Provisions as to procedure—**(1) An Inspector who lays an information or makes a complaint in respect of any offence or matter under this Act shall not be called on to prove that he is an Inspector. 10

(2) Any such information or complaint may be proceeded with and conducted by the same or any other Inspector or by any person permitted by the District Court Judge to conduct it. 15

(3) In any proceedings under this Act it shall be sufficient in the information or complaint to allege that the undertaking concerned is an undertaking, or some specified class of undertaking, and to state the name of its ostensible occupier, or the style or title under which the occupier is usually known or carries on business; and any information or complaint may from time to time be amended by the District Court Judge as to the actual name of the defendant. 20

(4) In any proceedings under this Act it shall lie upon the defendant to bring himself under any exemption, proviso, excuse, or qualification; and it shall not be necessary for the same to be negatived in the information or complaint. 25

(5) A defendant may be called by an Inspector, and shall be compellable to give evidence as a defendant in a civil action is compellable. 30

(6) Several charges or complaints against the same person, or several charges pursuant to section 68 of this Act, may be heard together if the District Court Judge thinks fit so to hear them, and charges or complaints against several persons may be so heard with the consent of the parties if the District Court Judge shall so order; and in all such cases a witness sworn to give evidence respecting (1) one charge or complaint shall for all purposes be deemed a witness in respect of each charge or complaint. 35 40

(7) Notwithstanding anything to the contrary in the foregoing provisions of this Act, in any proceedings on an information, any order that the District Court Judge is empowered to make may be made without a complaint being made.

- 5 (8) 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.

Cf. 1946, No. 43, s. 92; 1955, No. 32, s. 40

- 10 **71. Right of appeal**—The Inspector or any other party who may be dissatisfied with the judgment of the Court on any summary proceedings under this Act may appeal to the High Court in the manner provided by the Summary Proceedings Act 1957.

Cf. 1946, No. 43, s. 93; 1955, No. 32, s. 41

- 15 **72. Civil liability to pay overtime or wages not affected**—The payment by the occupier of an undertaking of any fine for an offence under this Act shall not relieve him from his civil liability in respect of wages or other payments due by him.

20 Cf. 1946, No. 43, s. 95; 1955, No. 32, s. 43

## PART (IX) VIII

### MISCELLANEOUS

- 25 **73. Awards (and collective agreements) to be read subject to Act**—(1) Subject to subsection (2) of this section, all awards (and collective agreements under the *Industrial Relations Act 1973*) (whether made before or after the commencement of this Act), shall be read subject to the provisions of this Act.

- 30 (2) Nothing in subsection (1) of this section shall so be construed as to reduce the rate of wages payable to any person pursuant to an award (or collective agreement), or to increase his working hours as fixed by an award (or collective agreement.)

Cf. 1946, No. 43, s. 98

- 35 **74. Annual report**—(1) The Minister shall in the month of June in each year, or as soon thereafter as is practicable, make a report in writing to the Governor-General as to the operation of this Act during the year that ended on the

preceding 31st day of March, which report shall form part of the report prepared in respect of that year under section 15 of the Labour Department Act 1954.

(2) The report shall so be framed as not to disclose the name or identity of any employer, worker, or undertaking. 5

*Struck Out*

(3) The report shall be laid before Parliament not later than the 16th sitting day of Parliament after the day on which it is made.

Cf. 1946, No. 43, s. 99

10

**75. Regulations**—(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) Prescribing rules to be observed in any undertaking where any prescribed gas or material exists or is generated or used: 15

(b) Requiring the occupiers of undertakings, or of undertakings of any specified class or classes, to provide and maintain first-aid facilities, appliances, and requisites, of a prescribed standard: 20

*Struck Out*

(c) Requiring compliance with any code of practice:

(d) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act. 25

(2) Without limiting the generality of subsection (1) of this section, it is hereby declared that where the Governor-General is satisfied that any manufacture, equipment, plant, process, or description of manual labour, used in undertakings (in this section referred to as the activity) is of such a nature as to cause risk of bodily injury to, or injury to the health, or impairment of the hearing, of, persons employed in connection with it, he may from time to time by Order in Council make regulations for all or any of the following purposes: 30

(a) Prohibiting the employment, or modifying or limiting the hours of employment, of all persons, or any specified class of person, in connection with the activity: 35

(b) Prohibiting, limiting, or controlling the activity or the use of any material associated with it: 40

*Struck Out*

- 5 (c) Modifying or extending, with respect to any specified class of undertaking in which the activity is used or carried on, any provision of this Act relating to safety, health, or welfare:
- (d) Imposing duties on all or any of the following classes of person:
- 10 (i) The owners of undertakings of a specified class (being undertakings in which the activity is used or carried on) or places where such undertakings are situated:
- (ii) The occupiers of undertakings of any such class or places where such undertakings are situated:
- 15 (iii) Persons employed in undertakings of any such class or places where such undertakings are situated:
- (iv) Other persons in any way connected with the activity:
- 20 (e) Providing for such other matters as may be necessary or expedient to reduce or eliminate the risks associated with the activity.

*New*

- 25 (2A) Without limiting the generality of subsection (1) of this section, it is hereby declared that the Governor-General may from time to time make regulations for all or any of the following purposes:
- (a) Providing for the establishment of works safety and health committees representative of workers and employers in relation to all undertakings or any class or classes of undertaking for the purpose of improving and maintaining the safety and health of persons engaged or employed in those undertakings:
- 30 (b) Prescribing the functions of any such works committees:
- 35 (c) Providing for the appointment of safety representatives from among the workers employed in all undertakings or any class or classes of undertakings for the purpose of improving and maintaining the safety and health of persons engaged or employed in those undertakings:
- 40 (d) Prescribing the functions of any such safety representatives:

*New*

- (e) Providing for the payment of workers by their employers for time occupied in—
- (i) Attending meetings of any such committees:
  - (ii) Attending to matters arising out of the discussions of any such committees: 5
  - (iii) Carrying out their functions on safety representations.

(2b) Regulations may be made under subsection (2A) of this section so as not to apply to workers employed in the service of the Crown or to any class or classes of workers so employed. 10

(3) Regulations made under this Act may so be made as to apply to all undertakings, or to any class or description of undertaking, or to any part of any undertaking or class or description of undertaking, or part of any undertaking, and may provide for the exemption of any class or description of undertaking or of any part of any class or description of undertaking, either absolutely or subject to conditions. 15

(4) No regulation made under this Act shall be invalid by virtue only of the fact that it delegates to or confers on the Governor-General, the Chief Inspector (*of Factories*), Inspectors, or any other person or body, any discretionary authority. 20

Cf. 1946, No. 43, s. 79; 1973, No. 19, s. 233

**76. Act to be administered in Department of Labour**—This Act shall be administered in the Department of Labour. 25

Cf. 1955, No. 32, s. 48

*Struck Out*

**77. Payment for time worked unlawfully**—Notwithstanding anything in the Illegal Contracts Act 1970, for the purposes of the recovery of wages or other money claimed by any worker in respect of the worker's employment in any undertaking (whether by the worker or on the worker's behalf under section 158 of the Industrial Relations Act 1973), that employment shall not be deemed to have been unlawful by reason only of the fact that it was in contravention of any provisions of this Act. 30 35

**78. Consequential amendments**—(1) The Health Act 1956 is hereby consequentially amended by inserting, after section 22, the following section: 40



“22A. Powers of Departmental officers under Factories and Commercial Premises Act 1979—(1) The Director-General, the Deputy Director-General, the Deputy Director-General of Health (Public Health), the Director of the Division of Public Health, every Medical Officer of Health, every Inspector, and every other officer of the Department of Health authorised in writing in that behalf by the Director-General or a Medical Officer of Health, shall have and may exercise the same powers and authorities as an Inspector of Factories under the provisions of the Factories and Commercial Premises Act 1979 and of any regulations made under that Act imposing requirements relating to health; and sections 5, 6, 60 to 63, 65, and 66 of that Act, and Part (VI) V of that Act shall extend and apply as if the references in those provisions to Inspectors of Factories included references to those persons.

“(2) If it appears to a person empowered by subsection (1) of this section to exercise powers and authorities of an Inspector of Factories that proceedings should be taken for an offence under the Factories and Commercial Premises Act 1979 in relation to any matter affecting health, he may require an Inspector of Factories to take proceedings accordingly.”

(2) The First Schedule to the Labour Department Act 1954 (as substituted by section 2 (2) of the Labour Department Amendment Act 1979) is hereby amended—

- (a) By omitting the words “The Factories Act 1946”, and substituting the words “The Factories and Commercial Premises Act 1979”; and
- (b) By omitting the words “The Shops and Offices Act 1955”.

*New*

(3) The Dangerous Goods Act 1974 is hereby consequentially amended by inserting, after section 32, the following section:

“32A. Phosphorus matches—No person shall sell, offer or expose for sale, or have in his possession for the purposes of sale, any matches made with the substance usually known as white phosphorus or yellow phosphorus.”

79. Consequential repeals—The enactments specified in the Schedule to this Act are hereby consequentially repealed.

## SCHEDULE

Section 80

## ENACTMENTS REPEALED

*New*

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|--|
| 1910, No. 4—The Phosphorus Matches Act 1910 (1957 Reprint, Vol. 11, p. 771.) |
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| 1946, No. 43—The Factories Act 1946. (1957 Reprint, Vol. 4, p. 775.)   |
| 1948, No. 77—The Statutes Amendment Act 1948: Section 15. (Reprinted, 1976, Vol. 5, p. 4483.)  |
| 1949, No. 51—The Statutes Amendment Act 1949: Section 15. (Reprinted, 1976, Vol. 5, p. 4484.)  |
| 1953, No. 77—The Factories Amendment Act 1953. (1957 Reprint, Vol. 4, p. 829.)   |
| 1955, No. 32—The Shops and Offices Act 1955. (1957 Reprint, Vol. 4, p. 431.)   |
| 1956, No. 66—The Factories Amendment Act 1956. (1957 Reprint, Vol. 4, p. 830.)   |
| 1961, No. 65—The Factories Amendment Act 1961.   |
| 1965, No. 131—The Shops and Offices Amendment Act 1965.  |
| 1966, No. 17—The Factories Amendment Act 1966.   |
| 1970, No. 137—The Age of Majority Act 1970: So much of the Second Schedule as relates to the Factories Act 1946 or the Shops and Offices Act 1955.       |
| 1971, No. 43—The Factories Amendment Act 1971.   |
| 1971, No. 127—The Shops and Offices Amendment Act 1971.  |
| 1972, No. 40—The Factories Amendment Act 1972.   |
| 1972, No. 42—The Shops and Offices Amendment Act 1972.   |
| 1973, No. 19—The Industrial Relations Act 1973: So much of the Third Schedule as relates to the Factories Act 1946 or the Shops and Offices Act 1955.    |
| 1973, No. 62—The Factories Amendment Act 1973.   |
| 1974, No. 121—The Shops and Offices Amendment Act 1974.  |
| 1976, No. 33—The Waitangi Day Act 1976: Section 7 (4).   |
| 1977, No. 8—The Shop Trading Hours Act 1977: So much of the Third Schedule as relates to the Shops and Offices Act 1955.                                 |
| 1977, No. 49—The Human Rights Commission Act 1977: So much of the First Schedule as relates to the Factories Act 1946 or the Shops and Offices Act 1955. |
| 1977, No. 108—The Industrial Relations Amendment Act 1977: So much of the Second Schedule as relates to the Shops and Offices Act 1955.                  |
| 1978, No. 94—The Factories Amendment Act 1978.   |
| 1978, No. 123—The Shops and Offices Amendment Act 1978.  |