

## FACTORIES BILL

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### EXPLANATORY MEMORANDUM

THE purpose of this Bill is to re-enact the Factories Act, 1921-22, and its amendments, with additions and alterations, the most important of which are referred to below.

In the rewriting of the legislation more modern forms of words have been used and the clauses have been arranged in a more logical sequence. The result is that certain of the present sections have been split up. To enable a complete comparison to be made with the present legislation, references to the present legislation are given in the margin, and a table follows which indicates where the present legislation appears (either in the same form or in a modified form), and which indicates what legislation has been omitted.

### MAIN DIFFERENCES FROM THE PRESENT LAW

#### *Preliminary*

*Clause 2:* The definition of the term "factory" has been extended to include places where milk is pasteurized, and also abattoirs.

#### *Registration of Factories*

*Clauses 9 to 14:* The Factories Act, 1921-22, provides (section 12) that where an Inspector requires defects in a proposed factory to be remedied there is an appeal to the local authority, and from it to the Medical Officer of Health. It is provided (clause 11 (3)) that the appeal shall now be to a Magistrate, as with other appeals against requisitions of Inspectors.

The registration year, which at present expires on 31st March, is altered (clause 14) to expire on 31st January.

The scale of annual registration fees is increased from a minimum of 1s. and a maximum of £2 10s. to a minimum of 1s. and a maximum of £5 5s. (First Schedule).

#### *Records and Notices in Factories*

*Clause 17:* This clause, which is based on the Factories Act, 1937 (Imp.), requires occupiers of factories to keep a record of all accidents of which they have knowledge.

#### *Hours of Work and Overtime*

*Clauses 19 to 21:* Overtime is entirely prohibited in the case of any boy or girl under sixteen years of age. The restrictions as to overtime that at present apply to women and boys are now extended to youths (*i.e.*, males between the ages of sixteen years and eighteen years).

### *Holidays in Factories*

*Clause 32:* The provision permitting, in the case of newspapers, the substitution of other working-days as whole holidays in lieu of Boxing Day, Easter Monday, Labour Day, and the Sovereign's birthday has been omitted, consequentially on an agreement being arrived at between the employers' and the workers' organizations.

### *Payment of Wages*

*Clause 34:* The minimum wage is raised (without prejudice to the Minimum Wage Act, 1945) to £1 a week, increased by half-yearly increments of 5s. a week to £2 10s. a week, which is payable after three years.

### *Employment of Women and Young Persons*

*Clause 37:* It is provided (subclause (6)) that a medical certificate as to the fitness of any boy or girl under sixteen years of age for a proposed employment, must be obtained by the employer and produced to the Inspector, before the Inspector may issue the requisite certificate of fitness.

*Clause 38:* The period of prohibition of the employment of women after confinement is extended from four weeks to six weeks, which is the period specified in the I.L.O. convention (subclause (1)).

Subclause (4) has been recast and follows the Factories Act, 1937 (Imp.).

Subclause (5) is new, and is based on section 57 (2) of the same Act.

### *Work done Elsewhere than in Factories*

*Clause 39:* Section 30 of the Factories Act, 1921-22, and section 11 of the Factories Amendment Act, 1936, relating to the "giving out" of work in connection with textile or shoddy material and the licensing of "out-workers" may under section 10 of the Factories Amendment Act, 1936, be applied by Order in Council to other classes of work. This clause makes the existing provisions of section 30, as amended in 1936, of general application.

### *Safety Provisions*

*Clause 41:* Subclauses (2) and (3) are new and are based on the Factories Act, 1937 (Imp.).

Subclause (6) is new and is based on a provision in force in Victoria.

*Clauses 42 and 43:* These clauses are new and are based on the Factories Act, 1937 (Imp.).

*Clause 44:* This clause has been recast on the lines of the Factories Act, 1937 (Imp.).

*Clause 45:* This clause is new.

*Clauses 46 and 47:* These clauses are new and are based on the Factories Act, 1937 (Imp.).

*Clause 48:* Subclauses (1) and (3) are new and are based on the Factories Act, 1937 (Imp.).

### *Health and Welfare Provisions*

*Clause 54:* Subclause (2) is new and is based on the Factories Act, 1937 (Imp.).

*Clause 55:* Subclauses (2) and (3) are based on the Factories Act, 1937 (Imp.). At present 250 cubic feet is the minimum air space in New Zealand (Factories Consolidating Regulations 1937 (Serial number 192/1937), Reg. 23), and the second proviso to subclause (2) provides for time being allowed to existing factories to bring the air space allowance up to 400 cubic feet.

*Clause 56:* Subclause (2) is new and is based on the Factories Act, 1937 (Imp.).

*Clause 57:* This is new and is based on the Factories Act, 1937 (Imp.).

*Clause 58:* Subclause (1) is new and is based on the Factories Act, 1937 (Imp.).

*Clause 60:* This is new and is based on the Factories Act, 1937 (Imp.).

*Clause 61:* Subclause (2) is new and is based on the Factories Act, 1937 (Imp.).

*Clauses 62 to 67:* These clauses are new and, except for clause 66, are based on the Factories Act, 1937 (Imp.).

*Clause 69:* The present provision (section 25 of the Factories Act, 1921-22) applies only in respect of women and boys. This clause is of general application. Provision is also made for canteens to be provided in certain cases.

*Clause 77:* This clause confers on officers of the Department of Health the powers of Inspectors of Factories for the purposes of clauses 54 to 76.

#### *Safety and Health and Welfare Regulations*

*Clause 78:* This clause is new and is based on the Factories Act, 1937 (Imp.).

#### *Requisitions by Inspector*

*Clause 79:* This clause is new, and should be read in conjunction with clause 82 (giving a right of appeal against requisitions) and clause 83 (authorizing cancellation of registration of a factory for non-compliance with a requisition).

*Clause 80:* This clause is an extension of the existing provision (paragraph (h) of section 66 of the Factories Act, 1921-22) in that it applies to any alteration to the building and not merely to alterations for sanitary purposes, and it also provides a procedure whereby the owner may appeal against the requisition.

*Clause 83:* This clause is new.

#### *Offences, Penalties, and Procedure*

*Clause 85:* The maximum penalty is increased by this clause from £10 to £25, in cases where no other penalty is expressly provided.

#### *Miscellaneous Provisions*

*Clause 95:* This clause is new.

*Clause 99:* Subclauses (2), (3), and (4) are new.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS  
REPEALED

THE FACTORIES ACT, 1921-22, No. 42 (REPRINT, VOL. III, P. 198)

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
1 .. ..	1	33 (2) ..	Repealed
2 .. ..	2, 3	(3) .. ..	..
3, 4 .. ..	4	(4) .. ..	35 (2)
5 .. ..	5 (1), (2)	34 .. ..	70
6 (1) .. ..	6	35 .. ..	26
6 (2) .. ..	5 (3)	36 .. ..	27
7 .. ..	7	37 (1) (a) ..	32 (1) (a)
8 .. ..	8	(b) .. ..	..
9 .. ..	9	(c) .. ..	32 (1) (b)
10 (1) .. ..	10	(2) .. ..	32 (3)
10 (2), (3) ..	..	38 .. ..	Repealed
11 .. ..	11 (1)	39 (1) (a) ..	41 (1)
12 .. ..	11 (2), (3)	(b) .. ..	41 (4), 44
13 .. ..	12	(c)-(e) ..	41 (5), (7), (8)
14 .. ..	13	(f) .. ..	50
15 .. ..	14 (1)	(2) .. ..	51 (1)
16 (1), (2), (3)	15	40 .. ..	51 (2), (3)
16 (4) .. ..	16	41 .. ..	52
16 (5) .. ..	18	42 .. ..	49
17, 18 .. ..	Repealed	43 (a)-(e) ..	53
19 .. ..	23	(f), (g) ..	48 (2), (4)
20 .. ..	25	44 (a) .. ..	54
21 .. ..	20 (2), (3), (4)	(b) .. ..	59 (1)
22 .. ..	24	(c) .. ..	55
23 .. ..	21	(d), (e) ..	56
24 (a) .. ..	*	(f), (g) ..	55
(b) .. ..	68	(h) .. ..	61 (1)
(c) .. ..	38 (1)	(i) .. ..	58 (2)
25 .. ..	69	45, 46 .. ..	71
26 .. ..	33	47 .. ..	72
27 (a) .. ..	Repealed	48 .. ..	71, 72
(b) .. ..	..	49 .. ..	73
(c) (i) .. ..	38 (3)	50 .. ..	75
(ii) .. ..	..	51 .. ..	74
(d) (iii) .. ..	..	52 (a) .. ..	76
(iv) .. ..	38 (4)	(b), (c) ..	77
(e) (v) .. ..	38 (4)	(d) .. ..	76
(f) (vi) .. ..	..	53 .. ..	84
(vii) .. ..	38 (2)	54 .. ..	88
28, 29 .. ..	37	55 .. ..	87
30 .. ..	39	56 .. ..	93
31 .. ..	40	57 .. ..	85
32 (a)-(e) ..	34	58 .. ..	90, 91 (1)
(f), (g) ..	36	59 .. ..	89
33 (1) .. ..	35 (1)	60 .. ..	86
		61 (1) (a)-(c) ..	..

\* See section 8 of the Wages Protection and Contractors Liens Act, 1939.

THE FACTORIES ACT, 1921-22, No. 42 (REPRINT, VOL. III, P. 198)—*continued*

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
61 (1) (d)-(i), (2), (3) ..	91 (2)-(7)	67 .. ..	..
62 .. ..	92	68, 69 .. ..	98
63 .. ..	94	70 (1) .. ..	99 (1)
64 .. ..	2 (2)	(2) .. ..	..
65 .. ..	96	71 .. ..	..
66 (a)-(c) .. ..	81	72 .. ..	..
(d)-(g) .. ..	82	73 .. ..	100
(h) .. ..	80	74 .. ..	101

## THE FACTORIES AMENDMENT ACT, 1936, No. 7

Section of Act.	Clause of Bill.	Section of Act.	Clause of Bill.
1 .. ..	Short Title	9 .. ..	22
2 .. ..	2	10, 11 .. ..	39
3 .. ..	Repealed	12 .. ..	34
4 .. ..	30	13 (1) .. ..	26
5 .. ..	20	(2) .. ..	..
6 (1) .. ..	20	14 .. ..	28
(2) .. ..	33	15 .. ..	29
(3) .. ..	21	16 (a) .. ..	41
(4) .. ..	20	(b) .. ..	50
7 (1), (2) .. ..	25	17 .. ..	..
(3) .. ..	Repealed	18 .. ..	Repealed
(4) .. ..	..	19 .. ..	97
8 .. ..	..		

## THE FINANCE ACT, 1936, No. 16

Section of Act.	Clause of Bill.
47 .. ..	31

## THE STATUTES AMENDMENT ACT, 1937, No. 38

Section of Act.	Clause of Bill.
11 .. ..	34

## THE STATUTES AMENDMENT ACT, 1938, No. 20

Section of Act.	Clause of Bill.
17 .. ..	28

## THE STATUTES AMENDMENT ACT, 1941, No. 26

Section of Act.	Clause of Bill.
25 .. ..	28

## THE STATUTES AMENDMENT ACT, 1944, No. 25

Section of Act.	Clause of Bill.
23 .. ..	37

## THE FACTORIES AMENDMENT ACT, 1945, No. 39

Section of Act.					Clause of Bill.
1	..	..	..	..	Short Title
2	(1)-(4)	..	..	..	19
	(5)	..	..	..	25 (12)
	(6)	..	..	..	..
3	..	..	..	..	25
4	(1)	..	..	..	97
	(2), (3)	..	..	..	101 (3)
5	..	..	..	..	77

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Hon. Mr. O'Brien

## FACTORIES

### ANALYSIS

Title.	<i>Records and Notices in Factories</i>
1. Short Title. Commencement.	15. Wages and time book.
2. "Factory" defined.	16. Notice to be exhibited and maintained.
3. Interpretation.	17. Record of accidents.
	18. Failure to keep records and exhibit and maintain notices.
ADMINISTRATION	
<i>Inspectors</i>	WORKING-HOURS, HOLIDAYS, AND WAGES
4. Appointment of Inspectors.	<i>Hours of Work and Overtime</i>
	19. Limits of working-hours.
<i>Inspection</i>	20. Prohibition and restrictions as to overtime.
5. Powers of Inspectors. Non-disclosure of information.	21. Permit for overtime worked by women and by youths.
6. Occupiers to allow entry and inspection.	22. Payment for overtime worked unlawfully.
7. Obstruction of Inspector.	23. Prevention of evasion of provisions as to working-hours.
8. Inspector to have certificate of appointment.	24. Overtime in fruit-canning factories.
	25. Working-hours and overtime in laundries.
<i>Registration of Factories</i>	<i>Holidays in Factories</i>
9. Factory not to be used until registered.	26. Holidays and half-holidays to be allowed in factories.
10. Application for registration.	27. Poll of electors as to half-holiday in factories.
11. Examination of intended factory and remedying of defects.	28. Wages payable for holidays allowed and for holidays and half-holidays worked.
12. Mode of registration.	
13. Increased fee if employees increased.	
14. Duration of registration. Repeal.	

29. Wages payable for work on Sundays.
30. Special provisions in respect of dairy factories.
31. Modification by Order in Council of requirements as to pay for work on holidays and Sundays.
32. Special provisions as to newspapers.
33. Special provisions as to employment of women and youths on holidays and half-holidays in milk-preserving factories.
- Payment of Wages*
34. Provisions as to remuneration for persons employed in factories.
35. Certificate of employment.
36. No premium to be charged for employment in factory.
- EMPLOYMENT OF WOMEN AND YOUNG PERSONS
37. Restrictions as to ages of boys and girls in factories. Certificates of fitness.
38. Restrictions on employment of women and young persons.
- WORK DONE ELSEWHERE THAN IN FACTORIES
39. Provisions as to work let out to be done elsewhere than in factories.
40. Penalty where factory employee works elsewhere than in factory.
- SAFETY, HEALTH, AND WELFARE
- Safety Provisions*
41. Machinery.
42. Cleaning, &c., of machinery by women, youths, or boys.
43. Training and supervision of young persons working at machines.
44. Vessels containing dangerous liquids.
45. Precaution where workers employed under loads.
46. Limitation of loads to be carried.
47. Safe means of access and safe place of employment.
48. Construction and maintenance of floors, passages, and stairs.
49. Rules where noxious or dangerous gas or material exists.
50. Inspector may require special action by occupier.
51. Penalty for failure to comply with safety provisions.
52. Procedure in case of accident.
53. Means of escape in case of fire.
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55. Overcrowding and airspace.
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57. Lighting.
58. Temperature and heating appliances.
59. Sanitary conveniences.
60. Drainage of floors.
61. Drinking-water.
62. Washing facilities, &c.
63. Accommodation for clothing.
64. Facilities for sitting.
65. First-aid facilities.
66. Rest room for women.
67. Protection of eyes in certain processes.
68. Wet spinning.
69. Meals in factories.
70. No meals where noxious process carried on.
71. Special provisions as to factories handling food.
72. Health of assistant likely to contaminate food, &c.
73. Extension to other factories of provisions as to food factories.
74. Checking spread of disease.
75. Nuisance adjoining factory to be removed.
76. Proceedings as to nuisances or sanitary defects under other Acts.
77. Powers of officers of Department of Health.
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78. Special regulations for safety, health, and welfare.
- GENERAL
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79. Inspector may require any defect to be remedied.
80. Liability of owner as to cost of alterations.
81. Form and service of requisitions.
82. Appeals against requisitions.
83. Registration of factory may be refused or cancelled for non-compliance with requisition.
- Offences, Penalties, and Procedure*
84. Offences.
85. Fine where no specific penalty provided.



86. Power to order contravention to be remedied.	94. Civil liability to pay overtime or wages not affected.
87. Fine on parent or guardian if young person employed in breach of Act.	<i>Miscellaneous Provisions</i>
88. Forgery of certificate, &c.	95. Matters may be completed by different Inspector.
89. Occupier may have actual offender charged.	96. Mode of computing persons employed in factory.
90. Proceedings to be before Magistrate alone.	97. Awards and industrial agreements to be read subject to this Act.
91. Provisions as to procedure.	98. Annual report.
92. Right of appeal.	99. Regulations.
93. Evidence as to employment in breach of Act.	100. Act not to apply to shearers.
	101. Repeals and savings.
	Schedules.

A BILL INTITULED

AN ACT to consolidate and amend certain Enactments of the General Assembly relating to Factories. Title.

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

1. (1) This Act may be cited as the Factories Act, 1946. Short Title.

(2) This Act, except sections *nine* to *fourteen* thereof, shall come into force on the *first* day of *April*, nineteen hundred and forty-seven. Sections *nine* to *fourteen* of this Act shall come into force on the *first* day of *January*, nineteen hundred and forty-seven. Commencement.

2. (1) In this Act, unless the context otherwise requires, "factory" means— "Factory" defined.  
Cf. 1921-22, No. 42, s. 2  
1936, No. 7, s. 2

(a) Any building, office, or place in which one or more persons are employed, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale, and includes any building, office, or place in which work such as is ordinarily performed in a factory is performed for or on behalf of any local authority whether for trade or sale or not; but does not include any building in course of erection, nor any temporary workshop or shed for workmen engaged in the erection of such building; but includes—

(b) Every bakehouse; and

- (c) Every building or place in which steam or other mechanical power or appliance is used for the purpose of preparing or manufacturing goods for trade or sale, or packing such goods for transit; and 5
- (d) Every building or place in which electrical energy is generated or transformed as an illuminant or a motive power for trade or sale, or in which coal-gas or any other form of gas is produced for like purposes; and 10
- (e) Every laundry, whether the persons employed therein receive payment or not; and
- (f) Every building or place in which the business of pasteurizing milk is carried on for trade or sale otherwise than on a farm; and 15
- (g) Every abattoir within the meaning of the Meat Act, 1939.
- 1939, No. 19
- (2) Where the operations of a factory are carried on in several adjacent buildings, enclosures, or places, all of them shall be included as one and the same factory, notwithstanding that they may in fact be separated or intersected by a road, street, or stream, or by any building, enclosure, place, or space not forming part of the factory. 20
- Cf.* 1921-22, No. 42, s. 64
- Interpretation.** 3. In this Act, unless the context otherwise requires,— 25
- Cf.* *ibid.*, s. 2
- “ Bakehouse ” means a building or place in which any article of food is baked or prepared for baking for sale for human consumption:
- “ Boy ” means a male person under the age of sixteen years: 30
- “ Court ” means a Court presided over by a Magistrate:
- “ Inspector ” means an Inspector of Factories appointed under this Act: 35
- “ Inspector of Health ” means an Inspector of Health under the Health Act, 1920:
- “ Laundry ” means a building or place in which laundry work is performed for hire or reward: 40
- See Reprint of Statutes, Vol. VI, p. 1061

- “Local authority” means the Council of the borough or county or the Board of the road district or town district in which any factory is situated:
- 5 “Male worker” means a male person over the age of sixteen years:
- “Medical Officer of Health” means a Medical Officer of Health under the Health Act, 1920:
- 10 “Minister” means the Minister of Labour:
- “Occupier” means the person occupying any building, office, or place used or intended to be used as a factory, and includes any agent, manager, foreman, or other person acting or apparently acting in the general management or control of a factory; and, where a factory is occupied by a body of persons, corporate or unincorporate, also includes the working manager:
- 15 “Place”, whether used in conjunction with the terms “building” or “office” or not, includes any land whether it is separately enclosed or not and whether there is any building or other erection thereon or not:
- 20 “Prime mover” means an engine, motor, or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel, or other source: Cf. Factories Act, 1927 (1 Edw. VIII and 1 Geo. VI, c. 67), s. 152 (Imp.)
- 25 “Sanitary conveniences” includes urinals, water-closets, earth-closets, privies, and any similar convenience:
- 30 “Transmission machinery” includes every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt, or other device by which the motion of the prime mover is transmitted to or received by any machine or appliance: Cf. ibid.
- 35 “Woman” means a female, irrespective of age:
- 40 “Youth” means a male person over the age of sixteen years but under the age of eighteen years.

## ADMINISTRATION

*Inspectors*

Appointment  
of  
Inspectors.  
Cf. 1921-22,  
No. 42,  
ss. 3, 4

4. (1) There may from time to time be appointed such number of suitable persons to be Inspectors of Factories as may be necessary for the purposes of this Act: 5

Provided that no such person shall be appointed as an officer of the Public Service unless he has passed such examination to test his knowledge of the provisions of this Act and of factory conditions generally as may be prescribed, the examination to be conducted by a representative Board to be set up under regulations made under this Act. 10

(2) There may from time to time be appointed a Chief Inspector and a Deputy Chief Inspector. 15

(3) On the occurrence from any cause of a vacancy in the office of the Chief Inspector, and in the case of the absence from duty of the Chief Inspector (from whatever cause arising), and so long as the vacancy or absence continues, the Deputy Chief Inspector shall have and may exercise and perform the powers, duties, and functions of the Chief Inspector. 20

(4) The fact that the Deputy Chief Inspector exercises or performs any power, duty, or function of the Chief Inspector shall be conclusive evidence of his authority so to do. 25

(5) Any constable who is authorized in writing to that effect by the Chief Inspector of Factories may act as Inspector of Factories, and while so acting shall have and may exercise all the powers and shall perform all the duties of an Inspector appointed in accordance with subsection *one* of this section. 30

*Inspection*

Powers of  
Inspectors.  
Cf. *ibid.*, ss. 5,  
6 (2)

5. (1) Every Inspector may— 35  
(a) Enter, inspect, and examine any factory at all reasonable hours by day and night when he has reasonable cause to believe that any person is employed therein, and enter, inspect, and examine by day any place which he has reasonable cause to believe to be a factory: 40  
(b) Take with him in either case a constable to assist him in the execution of his duty:

- 5 (c) Require the production of the certificate of registration held by the occupier of a factory, or any book, notice, record, list, or other document which the occupier of a factory is by this Act required to keep or exhibit therein, and inspect, examine, and copy the same:
- 10 (d) Make such examination and inquiry as he deems necessary in order to ascertain whether the provisions of this Act, or of any Act relating to the public health, are complied with as regards any factory or the persons employed therein:
- 15 (e) Examine with respect to matters under this Act, either alone or in the presence of any other person, as he thinks fit, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory, and require such person to make and sign a statutory declaration as to the matters with respect to which he is so examined:
- 20 (f) Exercise such other powers and authorities as may be necessary for carrying this Act into effect.
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(2) No person shall, on an examination or inquiry by an Inspector under this section, be required to answer any question tending to incriminate himself.

30 (3) Except for the purposes of this Act and the exercise of his functions under this Act, an Inspector shall not disclose to any person any information which in the exercise of those functions he acquires with respect to any factory.

Non-disclosure of information.

35 **6.** The occupier of a factory, his agents and servants, shall at all times furnish the means required by any Inspector, or by any officer of the local authority, for an entry, inspection, examination, and inquiry, or the exercise of any other powers under this Act or  
40 any enactment relating to the public health or local government, in relation to the factory.

Occupiers to allow entry and inspection.  
*Cf.* 1921-22, No. 42.  
s. 6 (1)

Obstruction of  
Inspector.

*Cf.* 1921-22,  
No. 42, s. 7

7. Every person commits an offence and shall be liable accordingly who—

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

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

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

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Inspector to  
have certificate  
of appointment.

*Cf.* *ibid.*, s. 8

8. (1) Every Inspector shall be furnished with a certificate of his appointment in the prescribed form, and on applying for admission to a factory he shall, if required, produce the certificate to the occupier.

(2) Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the Inspector named in any certificate, or falsely pretends to be an Inspector, shall be liable to imprisonment for a term not exceeding *six* months.

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#### *Registration of Factories*

Factory not to  
be used until  
registered.

*Cf.* *ibid.*, s. 9

9. (1) It shall not be lawful for any person to occupy or use as a factory any building, office, or place unless it is for the time being duly registered as a factory under this Act.

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(2) Every occupier of a factory who commits a breach of this section is liable to a fine not exceeding *five* pounds for every day during which the factory is unregistered.

Application for  
registration.

*Cf.* *ibid.*, s. 10

10. Application for registration shall be made in writing in the prescribed form to the Inspector by or on behalf of the occupier or intending occupier, and shall specify—

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(a) The name and situation of the factory or intended factory;

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(b) The nature of the work to be carried on therein, and of the motive power (if any) to be used therein;

(c) The maximum number of persons to be employed therein;

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(d) The full name of the occupier or intended occupier thereof;

- (e) The name or style under which the business of the factory is to be carried on;
- (f) The awards or industrial agreements within the meaning of the Industrial Conciliation and Arbitration Act, 1925, which affect the employment of the persons employed or proposed to be employed; and
- (g) Such other particulars as are prescribed.
11. (1) As soon as practicable after the receipt of an application for the registration as a factory of a building, office, or place that is not for the time being registered as a factory, the Inspector shall examine the intended factory in order to satisfy himself that it is suitable for the purpose for which it is to be used.
- (2) If the Inspector is of opinion that the intended factory is defective in any respect, he shall, by requisition in writing served on the applicant, specify the defects and inform him that the intended factory will not be registered until the defects are remedied to the Inspector's satisfaction.
- (3) The provisions of sections *eighty-one* and *eighty-two* hereof as to requisitions by Inspectors to occupiers shall, with the necessary modifications, apply in respect of requisitions under this section.
12. (1) Registration shall be effected by entering in a register to be kept for the purpose such particulars relating to the factory as may be prescribed.
- (2) A certificate of registration in the prescribed form shall be issued to the applicant.
- (3) The fee specified in the *First* Schedule to this Act shall, before the registration is effected, be payable in respect of every registration of a factory.
13. In any case where during the currency of the registration of a factory the number of persons employed in the factory is so increased as to require a larger registration fee, the occupier of the factory shall within seven days thereafter give written notice thereof to the Inspector and pay the difference in value between the registration fee already paid and the fee payable on the increased number.
14. (1) The registration of every factory pursuant to the foregoing provisions of this Act shall continue in force until the close of the last day of January next succeeding the date of registration and no longer.

See Reprint  
of Statutes,  
Vol. III, p. 939

Examination of  
intended  
factory and  
remedying of  
defects.  
Cf. 1921-22,  
No. 42, ss. 11, 12

Mode of  
registration.  
Cf. *ibid.*, s. 13

Increased fee  
if employees  
increased.  
Cf. *ibid.*, s. 14

Duration of  
registration.  
Cf. *ibid.*, s. 15

(2) Every certificate of registration of a factory in force on the *first* day of *January*, nineteen hundred and forty-seven, shall continue in force until the close of the last day of that month and shall then expire.

Repeal.

(3) Sections nine to fifteen of the Factories Act, 1921-22, are hereby repealed. 5

### *Records and Notices in Factories*

Wages and time book.  
Cf. 1921-22, No. 42, s. 16 (1) to (3)

15. (1) In every factory the occupier shall at all times keep in the prescribed form, or in such other form as may be approved by the Inspector, a record 10 in English (called the wages and time book) showing, in the case of each employee,—

- (a) The name of the employee;
- (b) His age, if under twenty-one years of age;
- (c) The kind of work on which he is usually 15 employed;
- (d) The award or industrial agreement (if any) within the meaning of the Industrial Conciliation and Arbitration Act, 1925, under which the employee is employed; 20
- (e) The hours of his employment during each week;
- (f) The wages paid each week; and
- (g) Such other particulars as are prescribed.

See Reprint of Statutes, Vol. III, p. 939

(2) The wages and time book in use for the time being, and every such book used at any time within 25 the two preceding years, shall at all times be open to inspection by the Inspector.

(3) The Inspector may at any time during ordinary working-hours require the occupier to verify the entries in any wages and time book by statutory declaration, 30 or in such manner and form as may be prescribed by regulations.

Notice to be exhibited and maintained.  
Cf. *ibid.*, s. 16 (4)

16. The occupier of a factory shall at all times cause to be exhibited and maintained in some conspicuous place at or near the entrance to the factory, 35 and in such other parts thereof as the Inspector from time to time directs, and in such a position as to be easily read by the persons employed in the factory, a notice containing—

- (a) The name and address of the Inspector for the 40 district;



- (b) The holidays and the working-hours of the factory;
- (c) An abstract, in the prescribed form, of this Act;
- 5 (d) A statement, in the prescribed form, of the procedure required to be observed in order to claim compensation under the Workers' Compensation Act, 1922; and
- (e) Such other particulars as may be prescribed.
- 10 **17.** The occupier of a factory shall keep in the factory a register, in the prescribed form, and shall enter in or attach to the register the prescribed particulars, relating to every accident which occurs in the factory and of which he has knowledge.
- 15 **18.** If the occupier of a factory makes default in faithfully complying with any of the provisions of any of the *last three preceding* sections he shall be liable to a fine not exceeding *two* pounds for every day on which such default occurs after the lapse of seven
- 20 days from the date on which the factory was first registered.

See Reprint of Statutes, Vol. V, p. 597

Record of accidents.  
Cf. Factories Act, 1937, s. 116 (1) (e) (Imp.)

Failure to keep records and exhibit and maintain notices.  
Cf. 1921-22, No. 42, s. 16 (5)

#### WORKING-HOURS, HOLIDAYS, AND WAGES

##### *Hours of Work and Overtime*

- 25 **19.** (1) Subject to the provisions of this Act, no worker shall be employed in or about a factory—
- (a) For more than forty hours (excluding meal-times) in any one week; or
- (b) For more than eight hours (excluding meal-times) in any one day; or
- 30 (c) For more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for a meal, except as may be provided in any award or industrial agreement within the meaning of the Industrial Conciliation and Arbitration Act,
- 35 1925.
- (2) Subject to the provisions of this Act, no woman, youth, or boy shall be employed in or about a factory—
- 40 (a) At any time between the hours of six o'clock in the evening of any day and eight o'clock in the morning of the following day; or
- (b) On any Sunday; or
- (c) On any holiday or half-holiday.

Limits of working-hours.  
Cf. 1945, No. 39, s. 2 (1) to (4)

See Reprint of Statutes, Vol. III, p. 939

(3) A male worker over the age of eighteen years may be employed in getting up steam for machinery in a factory, or in making preparations for the work of a factory, beyond the working-hours prescribed by subsection *one* of this section, but not for more than one hour in any one day. Every such worker so employed shall be paid at the ordinary rate for all time worked by him under this subsection. 5

1945, No. 39

(4) In any case where by the operation of the provisions of section two of the Factories Amendment Act, 1945, the limit of the working-hours of any workers engaged in any industry in which work was not regularly performed on seven days of the week was reduced to forty hours a week, those workers shall be paid for all time worked by them on Saturday at not less than one-half as much again as the ordinary rate. 10 15

Prohibition  
and  
restrictions as  
to overtime.  
Cf. 1921-22,  
No. 42, s. 21  
1936, No. 7,  
ss. 5, 6 (1),  
(4)

20. (1) It shall be unlawful to employ any boy or any girl under sixteen years of age in any factory beyond the working-hours and times prescribed under the *last preceding* section. 20

(2) Subject to the *last preceding* subsection and to the provisions hereinafter contained, the prescribed working-hours or times may from time to time be extended, but in the case of women who have attained the age of sixteen years and in the case of youths— 25

(a) The extension shall not be more than three hours in any day (excluding any time worked before noon on Saturday), nor more than nine hours in any week;

(b) The extension shall not be on more than two consecutive days in any week; 30

(c) The extension shall not be more than ninety hours in any year, except in any exceptional case arising, in the opinion of the Inspector, from any unforeseen circumstance, in which case he may grant a warrant under the *next succeeding* section permitting the working of extended hours after the ninety hours in a year have been worked by any employee, but the additional hours shall not in the case of any employee exceed thirty in any year, or, where the Minister consents to the additional hours exceeding thirty but not exceeding sixty, shall not exceed sixty in that year; and 35 40

(d) The extension shall not be on any holiday, half-holiday, or Sunday.

(3) No person who is employed beyond the prescribed working-hours shall be employed on such  
5 occasion for more than four hours continuously without having an interval of at least half an hour for rest and refreshment.

(4) Every person who is employed during extended hours under this section shall be paid therefor at not  
10 less than one-half as much again as the ordinary rate:

Provided that in the case of persons employed in and at bush sawmills engaged solely at logging, breaking down, and sawing rough timber the overtime shall be payable only for the extended hours worked  
15 during the week in excess of forty hours:

Provided also that when the ordinary rate is by time, and not by piecework, the overtime rate shall be not less than one shilling and ninepence an hour, and shall be paid at the first regular pay-day thereafter.

20 **21.** (1) It shall not be lawful to extend the working-hours or times of any woman who has attained the age of sixteen years, or of any youth, under the *last preceding* section unless the occupier of the factory has first obtained from the Inspector a warrant in the  
25 prescribed form.

(2) Written application for the warrant shall be made to the Inspector by the occupier previous to the commencement of the proposed extension, specifying the names of the women or youths to whom the  
30 extension is intended to apply, and the period of the extension.

(3) If the Inspector is of opinion that the extension would be dangerous or hurtful to the health of any person named in the application, he shall refuse to  
35 grant a warrant in respect of that person.

(4) The occupier shall cause the warrant to be posted in some conspicuous part of the factory during the extended hours specified in the warrant.

(5) The Inspector shall keep a record of the names  
40 of all those women and youths in respect of whom a warrant is granted, and shall note against the name of each the extended hours worked by her or him so that the full amount of overtime permitted by the *last preceding* section shall not in any case be exceeded.

Permit for overtime worked by women and by youths.  
Cf. 1921-22, No. 42, s. 23  
1936, No. 7, s. 6 (3)

(6) Notice shall, during some part of the working-day immediately preceding that on which the extension is intended to apply, be given to each woman or youth to whom the extension is intended to apply; or, where such notice is impracticable, the occupier shall, in addition to any payment for overtime, provide every such woman or youth who resides at a further distance than one mile from the factory either with a sufficient meal between the hour at which the factory ordinarily closes and the hour at which the extension is to commence, or with an allowance of not less than two shillings, such allowance to be paid on the day on which the extension is to apply not later than the hour at which the factory ordinarily closes.

Payment for overtime worked unlawfully.  
Cf. 1936, No. 7, s. 9

22. Where any worker is actually employed in or about a factory during extended hours, he shall be paid therefor in accordance with the provisions of this Act relating to the payment for overtime, notwithstanding that the extension of hours may have been unlawful.

Prevention of evasion of provisions as to working-hours.  
Cf. 1921-22, No. 42, s. 19

23. For the purposes of the provisions of this Act relating to hours of work and overtime, all work done for the occupier of a factory, elsewhere than in the factory, by any person employed in the factory (whether the work is or is not connected with the business of the factory) shall be deemed to be done whilst employed in the factory, and the time shall be counted accordingly.

Overtime in fruit-canning factories.  
Cf. *ibid.*, s. 22

24. The provisions of section *twenty* hereof are hereby modified in respect of fruit-canning factories and jam-factories to the extent that the limitations as to overtime contained in paragraphs (b), (c), and (d) of subsection *two* thereof need not be observed during the period between the first day of January and the first day of April in any year.

Working-hours and overtime in laundries.  
Cf. *ibid.*, s. 20  
1936, No. 7, s. 7  
1945, No. 39, s. 3

25. (1) Subject to the provisions of subsection *eleven* hereof, this section shall apply in respect of every laundry in which two or more persons (whether employees or not) are engaged.

(2) Except as hereinafter mentioned, no person may be engaged in or about any laundry—

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

- (b) For more than eight hours (excluding meal-times) in any one day; or
- 5 (c) For more than four and one-quarter hours continuously without an interval of at least three-quarters of an hour for a meal, except as may be provided in any award or industrial agreement within the meaning of the Industrial Conciliation and Arbitration Act, 1925; or
- 10 (d) At any time between the hours of six o'clock in the evening of any day and eight o'clock in the morning of the following working-day.
- (3) A male person over the age of eighteen years may be engaged in getting up steam for machinery in
- 15 a laundry, or in making preparations for the work of a laundry, beyond the working-hours prescribed by the *last preceding* subsection, but not for more than one hour in any one day. Every person who (being an employee) is so engaged shall be paid at the ordinary
- 20 rate for all time worked by him under this subsection.
- (4) Subject to the provisions hereinafter contained the working-hours or times prescribed under the foregoing provisions of this section may from time to time be extended except in the case of any boy or any girl
- 25 under the age of sixteen years, but a warrant in the prescribed form shall be obtained by the occupier of the laundry from the Inspector and—
- (a) The extension shall not be more than three hours in any day (excluding any time worked
- 30 before noon on Saturday), nor more than nine hours in any week;
- (b) The extension shall not be on more than two consecutive days in any week;
- (c) The extension shall not be more than ninety
- 35 hours in any year, except in any exceptional case arising, in the opinion of the Inspector, from any unforeseen circumstance, in which case he may grant a warrant under the provisions of this section permitting the working
- 40 of extended hours after the ninety hours in a year have been worked by any person, but the additional hours shall not in the case of

See Reprint  
of Statutes,  
Vol. III, p. 939

any person exceed thirty in any year, or, where the Minister consents to the additional hours exceeding thirty but not exceeding sixty, shall not exceed sixty in that year; and

(d) The extension shall not, in the case of a person who is an employee, be on any holiday, half-holiday, or Sunday. 5

(5) Written application for a warrant for the purposes of the *last preceding* subsection shall be made to the Inspector by the occupier of the laundry previous to the commencement of the proposed extension, specifying the names of the persons (whether employees or not) to whom the extension is intended to apply, and the period of the extension. 10

(6) If the Inspector is of opinion that the extension would be hurtful to the health of any person named in the application, he shall refuse to grant a warrant in respect of that person. 15

(7) The occupier shall cause the warrant to be posted in some conspicuous part of the laundry during the extended hours specified in the warrant. 20

(8) The Inspector shall keep a record of the names of all persons in respect of whom a warrant is granted, and shall note against the name of each the extended hours worked by him so that the full amount of overtime permitted by this section shall not in any case be exceeded. 25

(9) Notice shall, during some part of the working-day immediately preceding that on which the extension is intended to apply, be given to each employee to whom the extension is intended to apply; or, where such notice is impracticable, the occupier shall, in addition to any payment for overtime, provide every such employee who resides at a further distance than one mile from the laundry either with a sufficient meal between the hour at which the laundry ordinarily closes and the hour at which the extension is to commence, or with an allowance of not less than two shillings, such allowance to be paid on the day on which the extension is to apply not later than the hour at which the laundry ordinarily closes. 30 35 40

(10) Every person who, being an employee, is employed during extended hours under subsection *four* of this section shall be paid therefor at not less than one-half as much again as the ordinary rate:

5     Provided that when the ordinary rate is by time, and not by piecework, the overtime rate shall be not less than one shilling and ninepence an hour, and shall be paid at the first regular pay-day thereafter.

(11) This section shall not apply in the case of any  
10 laundry in which the occupier and his wife, or her husband, as the case may be, are the only persons engaged in laundry-work.

(12) Sections *nineteen, twenty, and twenty-one* of  
15 this Act shall not apply in respect of laundries in respect of which this section applies.

### *Holidays in Factories*

**26.** (1) Except as hereinafter provided, the occupier of a factory shall allow to every person employed in the factory the following holidays, that is to say:—

20     (a) A whole holiday on every Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, Anzac Day, Labour Day, and birthday of the reigning Sovereign; and also

25     (b) A half-holiday on every Saturday from the hour of twelve o'clock, midday.

(2) Notwithstanding anything contained in this section it shall be lawful, except as otherwise expressly provided, for the occupier of any factory to employ any male person who has attained the age of eighteen  
30 years on any whole holiday or half-holiday aforesaid.

**27.** (1) In the district of every local authority (other than a borough included in any of the combined districts of Dunedin, Christchurch, Wellington, or Auckland as existing under the Shops and Offices Act, 1921-22) a poll of the electors of the district may  
35 from time to time be taken in accordance with this section on a proposal that the weekly half-holiday provided for by the *last preceding* section shall be allowed in that district on the same day as the day  
40 appointed as the statutory closing-day for shops in that district under the Shops and Offices Act, 1921-22.

Holidays and half-holidays to be allowed in factories.

*Cf.* 1921-22, No. 42, s. 35  
1936, No. 7, s. 13 (1)

Poll of electors as to half-holiday in factories.

*Cf.* 1921-22, No. 42, s. 36

See Reprint of Statutes, Vol. III, p. 240

(2) If on such poll being taken a majority of the votes given thereat is in favour of the said proposal, the result of the poll shall be notified to the Minister under the hand of the Clerk of the local authority; and the Minister shall thereupon publish in the *Gazette* a notice that in the said district the half-holiday under this Act shall, on and after a date to be specified in the notice, be allowed on the same day as the day which is for the time being and from time to time appointed as the statutory closing-day for shops in that district instead of on Saturday; and every such notice shall have the force of law in accordance with the tenor thereof, notwithstanding the provisions of the *last preceding* section:

Provided that, notwithstanding the said notice, the occupier of a factory may allow a half-holiday on Saturday in lieu of the day appointed as the statutory closing-day for shops, on giving to the Inspector notice in writing of his desire so to do.

(3) So long as the said notice remains in force all the provisions of this Act with respect to the half-holiday to be allowed on Saturday shall apply to the half-holiday to be allowed in pursuance of the notice.

(4) If on such poll being taken a majority of the votes given thereat is against the said proposal, the result of the poll shall be notified to the Minister under the hand of the Clerk of the local authority; and the Minister shall publish in the *Gazette* a notice that in the said district the half-holiday to be allowed shall, as from a date to be specified in the notice, be allowed on Saturday, in accordance with this Act; and every such notice shall have the force of law in accordance with the tenor thereof, and shall supersede any prior notice published under the authority of this section or of any former similar enactment.

(5) The validity of any notice published by the Minister in pursuance or intended pursuance of the provisions of this section shall not be questioned in any Court whatsoever.

(6) Every such notice shall continue in operation until superseded by a subsequent notice published under the authority of this section.



(7) Until and unless a poll is so taken in any district, and a notice has been gazetted in accordance with this section, the provisions of the *last preceding* section shall apply to that district as if this section  
5 were not in force.

(8) Every poll for the purposes of this section shall be taken in accordance with the Local Elections and Polls Act, 1925.

See Reprint  
of Statutes,  
Vol. V, p. 447

(9) No such poll shall be taken except in pursuance  
10 of a petition signed by not less than one-tenth of the electors of the district and presented to the local authority, and on the presentation of a petition in accordance with this section it shall be the duty of the local authority to take a poll accordingly.

(10) No such poll shall be taken in any district  
15 except on the day fixed for a general election of the members of the local authority of that district, and every such poll shall be taken simultaneously with the poll (if any) which is taken in respect of that election:

20 Provided that if no poll has previously been taken under the authority of this section or of any former similar enactment in any district, the first such poll may, on such petition as aforesaid being presented, be taken on any day fixed by the local authority.

25 **28.** (1) Wages for each whole holiday allowed to any person as provided in this Act shall be at the same rate as for ordinary working-days, and shall be paid at the first regular pay-day thereafter.

Wages payable  
for holidays  
allowed and for  
holidays and  
half-holidays  
worked.

(2) Where any person has been employed in a  
30 factory by any employer at any time during the fortnight ending on the day on which any of the whole holidays referred to in section *twenty-six* of this Act occurs, he shall be entitled, subject to the *next succeeding* subsection, to receive payment for the holiday from  
35 that employer.

*Cf.* 1936, No. 7,  
s. 14  
1938, No. 20,  
s. 17  
1941, No. 26,  
s. 25

(3) Where any person has been employed in a factory by more than one employer during the fortnight ending on the day on which any of those holidays occurs, he shall be entitled to receive payment for the  
40 holiday from such one or more of those employers, and if more than one in such proportions, as the Inspector determines.

(4) The employment of a casual worker merely for the purpose of baking, or preparing for baking, any article of food required for sale for human consumption to meet a public demand resulting from the observance of any of the said whole holidays, shall not for the purposes of the *last two preceding* subsections be deemed to be employment in a factory. 5

(5) Subject to the provisions hereinafter contained, every person who is actually employed in any factory on any of the said whole holidays shall, in addition to the payment to which he is entitled under the foregoing provisions of this section, be paid therefor at not less than double the ordinary rate, and every person who is actually employed in any factory on any half-holiday shall be paid therefor at not less than one-half as much again as the ordinary rate: 10 15

Provided that where the ordinary rate is by time, and not by piecework, the rate payable under this subsection shall be not less than one shilling and ninepence an hour, and shall be paid at the first regular pay-day thereafter: 20

Provided also that where any worker employed in or about a dairy factory or a creamery in which not more than two workers are regularly employed is actually employed on any of the said whole holidays he may, instead of payment therefor in accordance with this subsection, be allowed two whole holidays at such time or times as the occupier may determine, being not later in any case than one month after the close of the season in which the said whole holiday occurred. 25 30

Wages payable  
for work on  
Sundays.  
Cf. 1936, No. 7,  
s. 15

**29.** (1) Subject to the provisions hereinafter contained, where any worker employed in a factory in which work is regularly performed on Sundays is actually employed on any Sunday, he shall, in addition to his ordinary rate of pay, be paid for the time worked on such Sunday at not less than the ordinary rate. 35

(2) Except as provided in the *last preceding* subsection and as hereinafter provided, every person who is actually employed in any factory on any Sunday shall be paid for the time worked on such Sunday at  
5 not less than double the ordinary rate of pay:

Provided that where the ordinary rate is by time, and not by piecework, the rate payable under this subsection shall be not less than one shilling and ninepence an hour, and shall be paid at the first regular  
10 pay-day thereafter.

30. (1) Except as otherwise provided in this section, no worker shall be employed in or about a dairy factory or a creamery on more than six days in any one week.

Special provisions in respect of dairy factories. Cf. 1936, No. 7, s. 4

15 (2) The *last preceding* subsection shall not apply with respect to any dairy factory or creamery in which not more than two workers are regularly employed.

(3) The following provisions shall apply in respect of any worker who is employed on more than six  
20 days in any week in or about any dairy factory or creamery referred to in the *last preceding* subsection, namely:—

(a) The worker shall be entitled to a whole holiday for every additional day on which he has  
25 been so employed; or

(b) Instead of allowing the worker any such holiday, the occupier may, in addition to the ordinary wages of the worker, pay him at the ordinary rate for any additional day on  
30 which he has been so employed.

(4) All holidays to which a worker becomes entitled pursuant to paragraph (a) of the *last preceding* subsection shall be allowed to him not later than one month after the close of the season during  
35 which he became entitled to them; and, in cases where payment in lieu of any holiday is made pursuant to paragraph (b) of the *last preceding* subsection, the payment shall be made not later than the close of the season.

Modification  
by Order in  
Council of  
requirements as  
to pay for  
work on  
holidays and  
Sundays.  
Cf. 1936,  
No. 16, s. 47

1936, No. 16

Special  
provisions as  
to newspapers.  
Cf. 1921-22,  
No. 42, s. 37  
Statutory  
Regulations  
1936-37,  
Serial number  
2/1936

**31.** (1) The Governor-General may from time to time, by Order in Council, modify with respect to any specified factory or specified factories, or with respect to any specified class or specified classes of factories, subject to such conditions or requirements as he thinks fit, all or any of the requirements of the *last three preceding* sections. 5

(2) Any Order in Council under this section may be at any time in like manner amended or revoked.

(3) Every Order in Council under this section shall have effect according to its tenor. 10

(4) The Orders in Council made under section forty-seven of the Finance Act, 1936, modifying the provisions of sections four, fourteen, and fifteen of the Factories Amendment Act, 1936, with reference to the factories or classes of factories referred to in the *Second* Schedule to this Act, shall for the purposes of this Act be deemed to have been made under this section with reference to the corresponding provisions of the *last three preceding* sections. 15 20

**32.** (1) Nothing in this Act shall be deemed to prevent—

(a) Any person being employed in a printing-office on the half-holiday for the purpose of printing or publishing an evening newspaper, or on one evening of the week (excepting Saturday) for the purpose of printing or publishing a weekly newspaper; or 25

(b) Any male person, whether above or below the age of sixteen years, being employed on the half-holiday in the publishing or delivering of a newspaper. 30

(2) For the purposes of the foregoing provisions of this Act in their application to night workers in a morning daily newspaper factory, the term "holiday" shall mean the period from noon on the day preceding the holiday until noon on the day of the holiday, and the term "Sunday" shall mean the period from noon on Saturday until noon on Sunday. 35

(3) For the purposes of this section "newspaper" means a paper containing public news, printed and published in New Zealand periodically or in parts or numbers, at intervals not exceeding twenty-six days between one publication and the next. 40

33. (1) Notwithstanding anything contained in sections *nineteen, twenty, and twenty-six* of this Act, it shall be lawful for the occupier of any milk-preserving factory to employ any woman who has attained the age of sixteen years, or any youth, on any whole holiday or half-holiday during the period commencing on the first day of October in any year and ending on the thirtieth day of April in the next succeeding year.
- (2) Any woman or youth so employed on any whole holiday shall, during the period of twenty-eight days immediately succeeding the holiday, be allowed a whole holiday in lieu thereof on such working-day as the occupier may determine:
- Provided that, in lieu of allowing such whole holiday as aforesaid, the occupier may, with the concurrence of the Inspector, agree in writing, with any such woman or youth that the whole holidays shall be allowed to accumulate, and that equivalent holidays shall be taken to commence at a time agreed on, not being later than the thirty-first day of May next succeeding the period during which the holidays have been worked. Where the employment of any such woman or youth is terminated from any cause, the occupier shall on such termination allow a holiday or holidays on full pay for such period as is equivalent to the holiday or holidays to which the woman or youth had become entitled under the agreement.
- (3) Any woman or youth so employed on any half-holiday shall, during the period of six days immediately succeeding the half-holiday, be allowed a half-holiday from the hour of twelve o'clock, midday, on such other working-day as the occupier may determine.
- (4) Any woman or youth employed as aforesaid on any whole holiday, or on any half-holiday, shall be paid therefor at not less than half as much again as the ordinary rate:
- Provided that where the ordinary rate is by time, and not by piecework, the amount of the payment shall be not less than one shilling and ninepence an hour, and shall be paid at the first regular pay-day thereafter.
- (5) For the purposes of this section "working-day" means any day in the week except Sunday.

Special provisions as to employment of women and youths on holidays and half-holidays in milk-preserving factories.

*Cf.* 1921-22, No. 42, s. 26  
1936, No. 7, s. 6 (2)

*Payment of Wages*

Provisions as  
to remuneration  
for persons  
employed in  
factories.  
*Cf.* 1921-22,  
No. 42, s. 32  
(a) to (e)  
1936, No. 7, s. 12  
1937, No. 38,  
s. 11

34. (1) Every person who is employed in any capacity in a factory shall be entitled to receive from the occupier such payment for his work as is agreed on, being not less than twenty shillings in any one week during the first six months of employment, increased by half-yearly increments of five shillings a week until the end of the third year of employment, and thereafter not less than two pounds ten shillings a week. No deduction shall be made from the wages of any boy or of any woman under eighteen years of age, except for time lost through the worker's illness or default, or on account of the temporary closing of the factory for cleaning or repairing the machinery. 5 10

(2) For the purpose of determining the rate of payment to which any person is entitled under this section, there shall be taken into account all periods of that person's employment in any factory whatsoever: 15

Provided that in determining the amount of wages to which an apprentice employed in any factory is entitled under this section, there shall be taken into account only the period or periods of his employment in that factory and in any other factory in which similar work was carried on at the time of his employment therein. 20 25

(3) The rate of payment referred to in subsection *one* of this section shall in every case be irrespective of overtime.

(4) Payment of wages as provided in this section shall be made in full at not more than fortnightly intervals. 30

(5) If the occupier makes default for seven days in the full and punctual payment of any money payable by him as aforesaid, he shall be liable to a fine not exceeding *one* pound for every day thereafter during which such default continues. 35

(6) Without affecting the other civil remedies for the recovery of money payable under this section to a person employed in a factory, civil proceedings for the recovery thereof may be taken by an Inspector in the 40

name and on behalf of the person entitled to payment, irrespective of any disability to which that person may be subject, in any case where the Inspector is satisfied that default in payment has been made.

5 (7) Nothing in this section shall be deemed to derogate from the provisions of the Minimum Wage Act, 1945. 1945, No. 44

10 35. (1) The occupier shall, on the request of any person leaving employment in the factory, give to that person a certificate under his hand in the prescribed form stating correctly the period during which that person has been so employed. Certificate of employment. Cf. 1921-22, No. 42, s. 33

15 (2) Every occupier who refuses or neglects to give any such certificate on the request of any person employed in the factory, or who gives any such certificate knowing the same to be false, shall be liable to a fine not exceeding *twenty* pounds.

20 36. (1) No premium in respect of the employment of any person in a factory shall be paid to or received by the occupier, whether the premium is paid by the person employed or by some other person. No premium to be charged for employment in factory. Cf. *ibid.*, s. 32 (f), (g)

(2) Any occupier who commits a breach of the provisions of the *last preceding* subsection shall be liable to a fine not exceeding *ten* pounds.

25 (3) In any case where a premium is paid or received in breach of the provisions of this section, or where the occupier has made any deduction from wages or received from the person employed or from any person on his behalf any sum in respect of such  
30 premium or employment, then, irrespective of any fine to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the occupier as a debt due to the person concerned, and  
35 civil proceedings for the recovery thereof may be instituted by an Inspector in the name and on behalf of the person concerned, irrespective of any disability to which that person may be subject.

## EMPLOYMENT OF WOMEN AND YOUNG PERSONS

Restrictions as to ages of boys and girls in factories. Certificates of fitness. Cf. 1921-22, No. 42, ss. 28, 29 1944, No. 25, s. 23 See Reprint of Statutes, Vol. II, p. 1007

37. (1) A boy or girl under fifteen years of age shall not be employed in any factory except in any special case authorized by the Inspector, who shall not give any such authorization except in the case of a boy or girl over fourteen years of age who is exempted under the Education Act, 1914, from the obligation to be enrolled as a pupil at any school. 5

(2) A boy or a girl under sixteen years of age shall not be employed in any factory unless the occupier holds from the Inspector a certificate of fitness relating to the boy or girl. 10

(3) The occupier shall, on demand by the Inspector, produce to him the certificate, and shall, as soon as the boy or girl to whom any such certificate relates ceases to be employed in the factory, deliver the certificate to the Inspector who shall hold it for reissue as and when required for the future employment of the boy or girl. 15

(4) A certificate of fitness for the purpose of this section may be obtained without fee. It shall be in the prescribed form and shall specify the full name and age of the boy or girl to whom it relates, and the nature of the employment for which the boy or girl is fit. 20

(5) The certificate of fitness may be expressed to apply either to one or more specified factories, or generally to all factories of any specified description or class. The certificate may at any time be extended by the Inspector, by endorsement of the certificate, to any other specified factory or description or class of factories. 25 30

(6) The Inspector shall not grant a certificate of fitness unless he is satisfied that the boy or girl to whom it relates is of the age shown therein and either is over fifteen years of age or is over fourteen years of age and exempted under the Education Act, 1914, from the obligation to be enrolled as a pupil at any school; and the Inspector shall not grant or extend a certificate of fitness unless the proposed employer obtains at his own expense and delivers to the Inspector a certificate from the Medical Officer of Health or from a registered medical practitioner nominated by the Medical Officer of Health certifying that the boy or girl is fit for the employment. 35 40



(7) Evidence as to age may be given by production of a certificate of birth (which, for the purposes of this section, the Registrar of Births and Deaths shall supply to the Inspector without fee), or by a statutory declaration made by any person competent to depose to the fact. A statutory declaration for the purposes of this section shall be exempt from stamp duty.

(8) The Inspector shall keep a register of all certificates of fitness issued by him.

(9) A certificate of fitness shall not operate to limit or remove any of the restrictions or conditions imposed by this Act in respect of the employment of boys or girls.

(10) Every employer who pursuant to this section employs a boy or girl under the age of sixteen years shall in the month before the employment ceases or before the boy or girl attains the age of sixteen years, whichever is the earlier, obtain at his own expense and deliver to the Inspector a certificate from the Medical Officer of Health or from a registered medical practitioner nominated by the Medical Officer of Health as to the state of health of the boy or girl.

**38.** (1) No woman shall be permitted, during the period of six weeks immediately following her confinement, to work in any factory other than a factory in which only members of the same family are employed.

Restrictions on employment of women and young persons.

(2) No woman, boy, or youth shall be employed in any room in which the making of white-lead is carried on, or in which is carried on the melting, casting, pasting, or burning of lead or of any material containing lead, or any other work involving the use or movement of, or contact with, any oxide of lead.

*Cf.* 1921-22, No. 42, ss. 24 (c), 27 (i), (iv), (v), (vii)  
*Cf.* Statutory Regulations 1940, Serial number, 1940/212, Reg. 3

(3) No boy or girl under sixteen years of age shall be employed in any room in which any dry grinding in the metal trade is carried on.

(4) No girl under eighteen years of age shall be employed in any part of a factory in which there is carried on—

*Cf.* Factories Act, 1937, s. 57 (Imp.)

(a) The process of melting, or of blowing glass other than lamp-blown glass; or

- (b) The process of annealing glass other than plate or sheet glass; or
- (c) The evaporating of brine in open pans, or the stoving of salt.
- (5) The Governor-General may from time to time 5  
by Order in Council extend the provisions of sub-  
section *three* or subsection *four* of this section to any  
process in which, on account of the special circumstances,  
it appears to him undesirable that workers such as are 10  
referred to in the said subsections should be employed,  
and, if he is satisfied that owing to a change in the  
circumstances in which any process specified in sub-  
section *four* of this section is carried on the provisions 15  
of that subsection ought not to apply, or ought to be  
relaxed, with respect to that process, he may by Order  
in Council direct that that subsection shall to such  
extent and subject to such conditions as may be specified  
in the Order in Council, cease to apply to that process.  
Any Order in Council under this subsection may be 20  
varied from time to time or may be revoked by the  
Governor-General by Order in Council.

#### WORK DONE ELSEWHERE THAN IN FACTORIES

Provisions as  
to work let  
out to be done  
elsewhere than  
in factories.  
*Cf.* 1921-22,  
No. 42, s. 30  
1936, No. 7,  
ss. 10, 11

39. (1) The occupier of a factory shall not let or  
give out work of any description to be done by any  
person elsewhere than in a registered factory unless 25  
that person is the holder of a license for the time being  
in force under this section.

(2) The occupier shall not at any time employ a  
greater number of persons holding licenses under this  
section than one for every ten or fraction of ten 30  
persons for the time being employed by the occupier  
in the factory.

(3) Every application for a license under this  
section shall be made by the occupier to the Inspector,  
and shall be accompanied by such fee as may be 35  
prescribed.

(4) No license shall be granted by the Inspector  
unless he is satisfied—

- (a) That the person to whom the application relates  
is in necessitous circumstances or is for 40  
special reasons unable to work in a factory;  
and

(b) That the place where the work is to be done is suitable; and

5 (c) That the rate of remuneration to be paid for the work is substantially equivalent to or is higher than the rate that would be payable if the work were done in the factory.

(5) Every license granted under this section shall remain in force for twelve months or for such shorter period as may be specified in the license:

10 Provided that any license may be at any time revoked by any Inspector if he ceases to be satisfied as to any of the matters mentioned in the *last preceding* subsection.

15 (6) If any application for a license under this section is refused, or if any license granted under this section is revoked, there shall be a right of appeal to a Magistrate, exercisable in any case either by the occupier of the factory or by the person in respect of whom the application is made or by the licensee. The  
20 provisions of section *eighty-two* of this Act as to appeals from requisitions shall, with the necessary modifications, apply with respect to appeals under this section.

(7) The occupier of a factory shall at all times keep  
25 a record showing with respect to each person holding a license under this section—

(a) His full name and address, and the situation of the place where he does the work;

30 (b) The quantity and description of the work done by him; and

(c) The nature and amount of the remuneration paid to him therefor.

(8) If any person to whom work is let or given out to be done elsewhere than in a registered factory  
35 directly or indirectly sublets the work or any part thereof, whether by way of piecework or otherwise, he commits an offence and shall be liable to a fine not exceeding *ten* pounds.

(9) If the occupier by whom any work is let or given  
40 out as aforesaid, knowingly permits or suffers in respect thereof any such offence as is referred to in the *last preceding* subsection, he shall be liable to a fine not exceeding *fifty* pounds.

(10) In any proceedings against the occupier of a factory in respect of an offence against the provisions of this section, the knowledge of the servants and agents of the occupier shall be deemed to be his knowledge.

(11) For all the purposes of this section every merchant, wholesale dealer, shopkeeper, agent, or distributor who lets or gives out work of any description shall be deemed to do so as the occupier of a factory, and the provisions, obligations, and penalties of this section (except subsection *two* hereof) shall extend and apply accordingly. 5 10

(12) Nothing in this section shall apply in respect of any work which cannot by reason of its particular nature be performed in a factory.

Penalty where  
factory  
employee works  
elsewhere than  
in factory.  
Cf. 1921-22,  
No. 42, s. 31

40. (1) Subject to the provisions of this section, if any person employed in a factory does any work for the occupier of the factory elsewhere than in the factory, the occupier commits an offence and is liable to a fine not exceeding *ten* pounds. 15

(2) Subject to the *next succeeding* subsection, if any person employed in a factory does any work for the occupier of the factory elsewhere than in the factory he commits an offence and is liable to a fine not exceeding *five* pounds. 20

(3) Nothing in this section shall apply in respect of any work which cannot by reason of its particular nature be performed in the factory. 25

#### SAFETY, HEALTH, AND WELFARE

##### *Safety Provisions*

Machinery.  
Cf. *ibid.*,  
s. 39 (1)  
(a) to (e).  
1936, No. 7,  
s. 16 (a).  
Cf. *Factories*  
Act, 1937,  
s. 13 (2), (3),  
(4) (Imp.)

41. (1) Where belts or pulleys are used in any factory, the factory shall be furnished with belt-shifters or other safe mechanical contrivances for the purpose of throwing the belts and pulleys on and off, and wherever practicable loose pulleys shall be provided, and any such contrivances shall be so constructed, placed, and maintained as to prevent the driving belt from creeping back on to the fast pulley. 30 35

(2) No driving belt shall be allowed when not in use to rest or ride upon a revolving shaft which forms part of the transmission machinery. 40

(3) Efficient devices or appliances shall be provided and maintained in every room or place where work is carried on by which the power can promptly be cut off from the transmission machinery in that room or place.

5 (4) All dangerous parts of any machinery shall be securely fenced off or otherwise provided with efficient safeguards.

(5) The safeguard shall not be removed whilst the appliance to which it relates is in use except for the  
10 purpose of making immediate repairs, and in such case the safeguard shall be replaced as soon as the repairs are effected.

(6) No female worker, unless her hair is cut short or securely fixed and confined close to her head by a  
15 net or otherwise, and no worker wearing any apron or loose garment, shall work, or be allowed to work, in any position where the worker is likely to come into direct contact with any moving machinery.

*Cf. Factories and Shops Act, 1928, s. 65 (1) (Vict.)*

(7) If the Inspector considers any appliance to be  
20 unsafe he may prohibit its use by affixing to it a notice under his hand containing the words "The use of this [*Name of the appliance*] is prohibited as being unsafe".

(8) Such notice shall not be removed except by the Inspector who shall first be satisfied that the appliance  
25 has been rendered safe. Until the notice is removed by the Inspector the appliance shall not be used.

**42.** A woman, youth, or boy shall not clean or carry out any examination, lubrication, or adjustment of any part of a prime mover or of any transmission  
30 machinery while the prime mover or transmission machinery is in motion, and shall not clean or carry out any examination, lubrication, or adjustment of any part of any machinery or appliance if the woman, youth, or boy would thereby be exposed to risk of  
35 injury from any moving part either of that machinery or appliance or of any adjacent machinery or appliance.

*Cleaning, &c., of machinery by women, youths, or boys.*

*Cf. Factories Act, 1937, ss. 15, 20 (Imp.)*

**43.** A person who has not attained the age of eighteen years shall not work at any machine in a factory unless he has been fully instructed as to the  
40 dangers arising in connection with the machine and the precautions to be observed, and unless—

*Training and supervision of young persons working at machines.*

*Cf. ibid., s. 21 (1) (Imp.)*

(a) He has received a sufficient training in work at the machine; or

(b) He is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

Vessels containing dangerous liquids.

*Cf.* 1921-22, No. 42, s. 39 (1) (b)

*Cf.* Factories Act, 1937, s. 18 (Imp.)

**44.** Every vat, pan, fixed vessel, structure, sump, or pit of which the edge is less than three feet above the adjoining ground or platform shall, if it contains any scalding, corrosive, or poisonous liquid, either be securely covered or be securely fenced to at least that height, or where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing, or other means to prevent any person from falling into the vat, pan, vessel, structure, sump, or pit. 5

Precaution where workers employed under loads.

**45.** In any case where any person in a factory is engaged in any work under something which has been raised or lifted for the purpose of enabling the work to be done, supports shall be placed under that thing to ensure that it does not drop or is not lowered while the person is so engaged. 15

Limitation of loads to be carried.

*Cf.* *ibid.*, s. 56 (Imp.)

**46.** (1) No person shall be employed in any factory to lift, carry, or move any load so heavy as to be likely to cause injury to him. 20

(2) Regulations may be made under this Act prescribing the maximum weights that may be lifted, carried, or moved by persons employed in factories. Any such regulations may prescribe different weights in different circumstances, and may relate either to persons generally or to any class of persons or to persons employed in any class or description of factory or in any process. 25

Safe means of access and safe place of employment.

*Cf.* *ibid.*, s. 26 (Imp.)

**47.** (1) There shall, so far as is reasonably practicable, be provided and maintained in each factory safe means of access to every place at which any person has at any time to work. 30

(2) Where any person is to work at a place from which he will be liable to fall a distance more than ten feet, then, unless the place is one which affords secure foot-hold and, where necessary, secure hand-hold, means shall be provided, so far as is reasonably practicable, by fencing or otherwise for ensuring his safety. 35

40

(3) Sufficient space shall be provided by the occupier in every room in a factory in which workers are engaged to permit reasonable movement without risk of accident to any worker.

- 5     **48.** (1) All floors, steps, stairs, passages, gangways, and ladders which are used or likely to be used by persons employed in any factory shall be of sound construction and properly maintained, whether or not they belong to the factory.
- 10     (2) Steps and stairs which are used or likely to be used by persons employed in a factory, whether or not the steps or stairs belong to the factory, shall be provided with substantial handrails, and shall also, if the Inspector by requisition to the occupier so directs, be
- 15 provided with slats or some other sufficient means of preventing slipping.
- (3) All openings in floors shall be securely fenced, except in so far as the nature of the work renders such fencing impracticable.
- 20     (4) If the Inspector considers any stairs or passage used or likely to be used by persons employed in the factory, whether or not the stairs or passage belong to the factory, to be so steep, narrow, winding, intricate, insecure, or otherwise defective as to be unsafe, he may
- 25 by requisition to the occupier direct the defect to be remedied.
- 30     **49.** (1) Regulations may be made under this Act prescribing rules to be observed in any factory where any noxious or dangerous gas or material exists or is generated or used.
- (2) The said regulations may declare, or may authorize the Minister from time to time by notice in the *Gazette* to declare, any gas or material to be noxious or dangerous for the purposes of the regulations.
- 35     **50.** Without limiting the foregoing provisions of this Act, the Inspector, by requisition to the occupier of any factory, may for the better prevention of accidents, require the occupier to repair or safeguard any specified part of the factory or any specified machinery or appliance therein, or to remedy any specified defect in the
- 40 factory or in any machinery or appliance therein.

Construction and maintenance of floors, passages, and stairs.

*Cf.* 1921-22, No. 42, s. 43 (f), (g)

*Cf.* Factories Act, 1937, s. 25 (Imp.)

Rules where noxious or dangerous gas or material exists.

*Cf.* 1921-22, No. 42, s. 42

Inspector may require special action by occupier.

*Cf. ibid.*, s. 39 (1) (f) 1936, No. 7, s. 16 (b)

Penalty for failure to comply with safety provisions.  
*Cf.* 1921-22, No. 42, ss. 39 (2), 40

51. (1) If default is made in the faithful observance of or compliance with any provision contained in any of the *last ten preceding* sections or with any requisition or regulation issued or made thereunder, the occupier of the factory shall be liable to a fine not exceeding *ten* pounds, and, in the case of a continuing default, to a further fine not exceeding *two* pounds for each day during which the default continues. 5

(2) If in consequence of any such default as aforesaid an accident occurs causing bodily injury or death to any person the occupier shall, in addition to the aforesaid penalty, be liable to a further fine not exceeding *one hundred* pounds, the whole or any part of which may be applied, in such manner as the Minister directs, for the benefit of the person injured or of his family or dependants if he has been killed: 10 15

Provided that the occupier shall not be liable under this subsection if earlier proceedings in respect of the default have been taken and dismissed on the merits within one month before the accident occurred: 20

Provided also that nothing in this section, and no penalty imposed under this section, shall operate in any way to relieve the occupier from any liability which, independently of this Act, he may incur for damage or compensation in respect of the accident or its consequences. 25

(3) No person on whom a fine is imposed under this section shall be convicted under the Inspection of Machinery Act, 1928, in respect of the corresponding default under that Act. 30

See Reprint of Statutes, Vol. V, p. 527

Procedure in case of accident.  
*Cf.* 1921-22, No. 42, s. 41

52. (1) In every case where an accident occurs in a factory which causes death or serious bodily injury to any person employed therein the occupier shall forthwith, and not in any event later than forty-eight hours after the occurrence of the accident, serve written notice thereof on the Inspector specifying the nature of the accident, the name and residence of the person killed or injured, his age, and the place (if any) to which he has been removed. 35

(2) For the purposes of the *last preceding* subsection the expression "serious bodily injury" means an injury which is likely to incapacitate the sufferer for work for at least forty-eight hours. 40



(3) As soon as practicable after receiving notice of an accident to which this section applies the Inspector shall make full inquiry into the nature and cause of the accident, and the nature and extent of the injuries.

5     **53.** (1) Efficient fire-escapes shall be provided for every workroom situate on any floor above the ground floor.

Means of escape in case of fire.

*Cf.* 1921-22, No. 42, s. 43 (a) to (e)

(2) Regulations may be made under this Act prescribing the plan and system of fire-escape. In so far  
10 as no such regulation is made, the Inspector, if he is not satisfied with the plan or system adopted, may by requisition to the occupier direct another specified plan or system to be adopted.

(3) Every door of the factory, whether internal  
15 or external, and the outer or entrance door by which persons employed in the factory usually enter or leave, whether that door belongs to the factory or not, shall be hung so as to open outwards.

(4) At all times while persons are actually working  
20 in any room,—

(a) Every door of the room;

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

25 (c) The outer or entrance door by which persons employed in the factory usually enter or leave,—

shall, whether or not the door belongs to the factory, be kept clear and unfastened, so as to permit of quick  
30 and easy egress.

#### *Health and Welfare Provisions*

**54.** (1) Every factory shall be kept in a clean state, and free from any nuisance and from any smell or leakage from any drain or sanitary convenience.

Cleanliness.  
*Cf.* 1921-22, No. 42, s. 44 (a)

35 (2) Without prejudice to the generality of the provisions of the *last preceding* subsection,—

*Cf.* Factories Act, 1937, s. 1 (Imp.)

(a) Accumulations of dirt and refuse shall be removed daily by a suitable method from the floors and benches of workrooms, and from  
40 the staircases and passages; and

(b) The floor of every workroom shall be cleaned at least once in every week by washing, or, if it is effective and suitable, by sweeping or other method.

Overcrowding  
and airspace.  
Cf. 1921-22,  
No. 42, s. 44  
(e), (f), (g)  
Cf. Factories  
Act, 1937,  
s. 2 (Imp.)

55. (1) A factory shall not be overcrowded so as to cause risk of injury to the health of the persons employed therein. 5

(2) Without prejudice to the generality of the *last preceding* subsection, a factory shall be deemed to be overcrowded as aforesaid if the number of persons employed at a time in any workroom is such that the amount of cubic space allowed for every person employed in the room is less than four hundred cubic feet: 10

Provided that the Inspector may, if in his opinion the circumstances are such that a greater space should be allowed, by requisition to the occupier require that a greater amount of cubic space be allowed for every person employed in any factory or workroom in a factory: 15 20

Provided also that the Inspector may in his discretion for such time, not exceeding *five* years from the commencement of this Act, and upon such conditions as he thinks fit exempt any factory, or part of a factory, from the requirements of this subsection if the factory is registered as a factory at the commencement of this Act and if the amount of cubic space allowed for each person employed therein is not less than two hundred and fifty cubic feet. 25

(3) In calculating, for the purposes of this section, the amount of cubic space in any room, no space more than fourteen feet from the floor shall be taken into account and no space shall be taken into account unless it is kept properly lighted and ventilated and clear from all materials, goods, or tools other than those actually used or required by the persons for whom the space is to be allowed. If a room contains a gallery, the gallery shall be treated for the purposes of this section as if it were partitioned off from the remainder of the room and formed a separate room. 30 35 40

56. (1) Every room in every factory shall be ventilated in such manner as to provide a sufficient supply of fresh air, and to carry off and render harmless, as far as practicable, all steam, fumes, dust, and other impurities arising in the course of the work carried on in the factory.

Ventilation and removal of steam, fumes, and dust.

*Cf.* 1921-22, No. 42, s. 44 (d), (e)

*Cf.* Factories Act, 1937, ss. 4 (1), 47 (1) (Imp.)

(2) In every factory in which, in connection with any process carried on, there is given off any steam, fume, dust, or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the persons employed, or any substantial quantity of dust of any kind, all practicable measures shall be taken to protect the persons employed against inhalation of the steam, fume, dust, or other impurity and to prevent its accumulating in any workroom, and in particular, where the nature of the process makes it practicable, exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the steam, fume, dust, or other impurity, so as to prevent it entering the air of any workroom.

57. (1) Effective provision shall be made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a factory in which persons are working or passing.

Lighting.  
*Cf.* *ibid.*, s. 5 (Imp.)

(2) Artificial lights shall be so placed and so shaded that no person employed in the factory shall be subjected to any avoidable glare.

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

(4) The Inspector may from time to time, by requisition to the occupier, require that additional lighting be installed and maintained or existing lighting arrangements be varied or that provision be made for the cleaning of lighting apparatus.

58. (1) Effective provision shall be made for securing and maintaining a reasonable temperature in each workroom in a factory, but no method shall be employed which results in the escape into the air of any workroom of any fumes of such a character and to such extent as to be likely to be injurious or offensive to persons employed therein.

Temperature and heating appliances.

*Cf.* 1921-22, No. 42, s. 44 (i)

*Cf.* Factories Act, 1937, s. 3 (Imp.)

(2) The Inspector may from time to time, by requisition to the occupier, require the occupier to provide and maintain such heating appliances as the Inspector thinks necessary for the comfort of the persons employed in the factory. 5

Sanitary conveniences.  
Cf. 1921-22, No. 42, s. 44 (b)  
Cf. Factories Act, 1937, s. 7 (Imp.)

**59.** (1) Sufficient and suitable sanitary conveniences shall be provided for the persons employed in every factory, and where members of both sexes are employed, not being members of the same family, the conveniences shall be entirely separate for each sex 10 so as to ensure privacy.

(2) The conveniences shall be conveniently accessible to the persons employed, properly ventilated and lighted, and built of impervious material or material that can be easily cleaned, and shall not open directly 15 into workrooms.

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

Drainage of floors.  
Cf. *ibid.*, s. 6 (Imp.)

**60.** (1) Where any process is carried on in any factory which renders the floor liable to be wet to such 20 an extent that the wet is capable of being removed by draining, effective means shall be provided and maintained for draining off the wet and protecting the workers.

(2) In any such case as aforesaid the Inspector 25 may, by requisition to the occupier, require that gratings or duckboards shall be provided.

Drinking-water.  
Cf. 1921-22, No. 42, s. 44 (h)  
Cf. Factories Act, 1937, s. 41 (Imp.)

**61.** (1) An adequate supply of wholesome drinking-water shall be provided for the free use of the persons employed in every factory. 30

(2) Except where water is delivered in an upward jet from which the employed persons can conveniently drink, one or more suitable cups or drinking-vessels shall be provided at each point of supply with facilities for rinsing them in drinking-water. 35

Washing facilities, &c.  
Cf. *ibid.*, s. 42 (Imp.)

**62.** (1) There shall be provided and maintained for the use of the persons employed in a factory adequate and suitable facilities for washing, which shall include soap and clean towels or other suitable means of cleaning or drying, and the facilities shall be conveniently accessible and shall be kept in a clean and 40 orderly condition.

(2) The Inspector may, by requisition to the occupier, require hot water to be provided.

5 **63.** There shall be provided and maintained for the use of the persons employed in each factory adequate and suitable accommodation for clothing not worn during working-hours; and such arrangements as are reasonably practicable or, when a standard is prescribed, such arrangements as are laid down thereby shall be made for drying such clothing as aforesaid.

Accommodation  
for clothing.  
Cf. Factories  
Act, 1937,  
s. 43 (Imp.)

10 **64.** (1) There shall be provided and maintained in each factory, for the use of all female workers whose work is done standing, suitable facilities for sitting sufficient to enable them to take advantage of any opportunities for resting which may occur in the course  
15 of their employment.

Facilities  
for sitting.  
Cf. *ibid.*,  
s. 44 (Imp.)

(2) In any case where the Inspector is of opinion that any workers or class of workers in a factory can conveniently and satisfactorily do their work, or a substantial part thereof, while sitting, the Inspector  
20 may, by requisition to the occupier, require that suitable seats be provided for the use of the workers.

**65.** The occupier of each factory shall provide and maintain first-aid facilities, appliances, and requisites to the satisfaction of the Inspector, or, when a standard  
25 is prescribed, shall provide and maintain first-aid facilities, appliances, and requisites of the prescribed standard.

First-aid  
facilities.  
Cf. *ibid.*,  
s. 45 (Imp.)

**66.** The occupier shall provide and maintain to the satisfaction of the Inspector a rest room available for  
30 the use of women employed in every factory in which more than six women are employed, and in every other factory where the Inspector by requisition to the occupier so requires.

Rest room for  
women.

**67.** In the case of any process which involves a  
35 special risk of injury to the eyes from particles or fragments thrown off in the course of the process, the occupier shall provide effective screens or suitable goggles to protect the eyes of the persons employed in the process.

Protection of  
eyes in  
certain  
processes.  
Cf. *ibid.*,  
s. 49 (Imp.)

Wet spinning.  
Cf. 1921-22,  
No. 42, s. 24  
(b)

68. Women and boys shall not be employed in any factory in which wet spinning is carried on, unless full and satisfactory provision is made to protect each of them from being wetted, and, where hot water is used, to prevent the escape of steam into any room in which any of them are employed. 5

Meals in  
factories.  
Cf. *ibid.*, s. 25  
Cf. Factories  
Act, 1937,  
s. 76 (Imp.)

69. (1) No person shall partake of any meal in any room in a factory in which any handicraft or manufacturing process is being, or within the previous two hours has been, carried on, or in which any person is, or during the previous two hours has been, engaged in work, except where the nature or continued process of the work carried on necessitates an employee partaking of a meal during his working-hours in the vicinity of the work or process on which he is engaged. 10 15

(2) Except as aforesaid no person who is entitled under this Act to an interval for a meal shall be permitted to do any work or to remain in any work-room during such interval.

(3) Notwithstanding the foregoing provisions of this section, where the number of persons employed in the factory does not exceed six the Inspector may authorize them to take their meals in the workroom and to remain therein. 20

(4) Where the number of persons employed in a factory exceeds six, the occupier shall provide and maintain a suitable room in which they may take their meals: 25

Provided that the Inspector may authorize a place of shelter within the factory to be used for the purpose if he is satisfied that it is adequate for the purpose and sufficiently secure from the weather and from public view: 30

Provided also that the Inspector may, by notice in writing to the occupier, modify the requirements of this subsection if in his opinion the persons employed can conveniently have their meals at their own homes or otherwise provide their own accommodation for meals. 35

(5) The room or shelter provided pursuant to the *last preceding* subsection shall be furnished and equipped by the occupier to the satisfaction of the Inspector with seats and tables, and kept so furnished and equipped, in order to ensure that meals may be taken with reasonable comfort and security, and the room and shelter shall not be used for the storage of materials or goods.

(6) Where the number of persons employed in a factory and requiring to have meals at the factory exceeds one hundred, the Inspector may, by requisition to the occupier, require that there shall be provided and maintained a canteen at which the persons employed can purchase meals.

(7) Where in the opinion of the Inspector it is desirable that separate accommodation for women should be provided the Inspector may by requisition to the occupier require provision to be made accordingly.

**70.** (1) In every case where any noxious handicraft, process, or employment within the meaning of this section is carried on no person employed in the factory shall be permitted to take any meal in any room or place where the noxious handicraft, process, or employment is being, or, during any previous part of that day, has been, carried on, anything to the contrary in the *last preceding* section notwithstanding.

No meals where noxious process carried on.

*Cf.* 1921-22, No. 42, s. 34

(2) The Governor-General may from time to time by Order in Council declare any specified handicraft, process, or employment to be a noxious handicraft, process, or employment within the meaning of this section.

**71.** (1) This section shall apply to every factory which is a bakehouse and to every other factory which is carried on the manufacture, preparation, or treatment of any article for sale for human consumption.

Special provisions as to factories handling food.

*Cf.* *ibid.*, ss. 45, 46, 48

(2) Once at least in every period of six months all the inside walls, ceilings, and roofs of every factory to which this section applies, and of every room, passage, and staircase therein, shall be thoroughly cleansed with limewash or with such other cleansing agent as may be approved by the Inspector:

Provided that if within the last preceding three years they have been properly oil-painted or varnished, soap and hot water may be used instead of limewash.

(3) For the purposes of the *last preceding* subsection the occupier shall furnish from time to time 5 evidence to the satisfaction of the Inspector as to how and when the walls, ceilings, and roofs aforesaid were cleansed, painted, or varnished, as the case may be.

(4) No place which is on the same level as any part of a factory to which this section applies, and 10 which forms part of the same building, shall be used as a sleeping-place unless the place is effectually separated from the factory by a partition extending from floor to ceiling and is also fitted with an external glazed window of at least nine square feet in area, of 15 which an area of at least four and one-half square feet is made to open for ventilation.

(5) Every cistern or pipe for supplying water to any sanitary convenience shall be separate and distinct from every cistern or pipe supplying water to any other 20 portion of the factory.

(6) No sanitary convenience or refuse bin shall be suffered to exist within or to be connected directly with any part of the factory in which work is carried on or materials or goods are kept, prepared, or 25 treated, and no drain or pipe for carrying off faecal matter or sewage shall have an opening within any such part of the factory as aforesaid.

(7) If any person lets as a factory to which this section applies, or suffers to be occupied or used as 30 such a factory, any building or room with respect to which any of the provisions of subsection *five* or subsection *six* of this section are not duly complied with at the time when he so lets it or suffers it to be occupied or used as aforesaid, that person shall, with- 35 out prejudice to the liability of the occupier, be liable to a fine not exceeding *two* pounds, and to a further fine not exceeding *ten* shillings for every day during which it is so occupied or used as aforesaid while the non-compliance continues. 40



72. (1) If any person employed in or in connection with any factory in which any articles for human consumption or any textile fabric is manufactured, prepared, treated, handled, or delivered is in such a state of health that in the opinion of the Inspector germs, disease, or other contamination, are likely to be conveyed to any of the said articles or fabric, the Inspector shall forthwith report the matter to the Medical Officer of Health.
- 10 (2) The Inspector shall serve on the person so employed, either personally or by posting it addressed to him at the factory, a notice requiring him to submit himself for examination to the Medical Officer of Health or to some registered medical practitioner
- 15 nominated by the Medical Officer of Health.
- (3) The Inspector shall serve a copy of the notice on the occupier.
- (4) Immediately upon the service of a notice as provided in subsection *two* hereof the person employed shall cease to do any work in or in connection with the factory until he has produced to the Inspector a certificate from the Medical Officer of Health or the registered medical practitioner nominated by him as aforesaid that the state of health of the person employed is not such that germs, disease, or other contamination are likely to be conveyed to any of the said articles or fabric.
- 25 (5) If the person employed does any work in contravention of the provisions of the *last preceding* subsection before he obtains the said certificate, he shall be liable to a fine not exceeding *two* pounds for every day on which he so does work.
- (6) If the occupier of the factory, after service upon him pursuant to subsection *three* hereof of a copy of a notice under this section, employs the person to whom the notice refers before that person has obtained the said certificate, the occupier shall be liable to the same fine as is provided in the *last preceding* subsection in the case of the person so employed.
- 30 35 40 73. The Governor-General may from time to time by Order in Council extend, in whole or in part, and either with or without modification, the provisions of the *last two preceding* sections to such other class or classes of factories as he thinks fit.

Health of assistant likely to contaminate food, &c.  
Cf. 1921-22, No. 42, ss. 47, 48

Extension to other factories of provisions as to food factories.  
Cf. *ibid.*, s. 49

Checking  
spread of  
disease.  
Cf. 1921-22,  
No. 42, s. 51

74. (1) It shall not be lawful to manufacture or work up goods or materials, or to receive them for any such purpose, in any factory or dwellinghouse wherein, to the knowledge of the occupier of the factory or dwellinghouse, there resides, or works, or is employed any person who is in such a condition as to be a source of infection for some infectious or contagious disease. 5

(2) It shall not be lawful to manufacture or work up goods or materials, or to receive them for any such purpose, in any factory or dwellinghouse wherein, to the knowledge of the occupier of the factory or dwellinghouse, any person who is in such a condition as to be a source of infection for some infectious or contagious disease has resided, or worked, or been employed within the preceding fourteen days, unless and until the factory or dwellinghouse, and all goods and materials therein, have been disinfected to the satisfaction of a Sanitary Inspector appointed under the Health Act, 1920. 10 15 20

See Reprint  
of Statutes,  
Vol. VI,  
p. 1061

(3) If any goods or materials are found to be or to have been in any factory or dwellinghouse in breach of this section, the Inspector of Factories may cause them to be seized and removed at the expense in all things of the owner, and may notify the Medical Officer of Health in order that they may be dealt with under the Health Act, 1920. 25

Ibid., Vol. II,  
p. 351

(4) A Magistrate may upon a complaint by an Inspector under the Justices of the Peace Act, 1927 (the provisions whereof shall, with the necessary modifications, apply), make an order for the payment by the owner of all or any of the expenses for which the owner is liable under this section. 30

Nuisance  
adjoining  
factory to be  
removed.  
Cf. 1921-22,  
No. 42, s. 50

75. (1) If in any building, yard, or place adjacent to a factory there exists any nuisance or other sanitary defect which in the opinion of the Inspector is likely to affect injuriously the proper sanitation of the factory or the health of the persons employed therein, the Inspector may, by requisition to the owner or occupier of the building, yard, or place, require him effectually to abate the nuisance or remedy the defect within a time named in the requisition. 35 40

(2) If the aforesaid owner or occupier fails to comply with the requisition he shall be liable to a fine not exceeding *five* pounds for every day during which the non-compliance continues.

5 (3) The Inspector shall not issue any requisition under this section until he has notified the local authority of the nuisance or sanitary defect nor unless the local authority has failed to cause the nuisance to be abated or the defect to be remedied within a  
10 reasonable time after it has received the notification.

(4) The provisions of sections *eighty* to *eighty-two* hereof, as to requisitions by Inspectors to occupiers, shall, with the necessary modifications, apply in respect of requisitions under this section.

15 **76.** (1) Where it appears to the Inspector that any nuisance or sanitary defect in or in relation to any factory or any building, yard, or place adjacent to any factory may be remedied or dealt with under any enactment relating to the public health or local  
20 government more effectually than under this Act, the Inspector shall give notice of the nuisance or sanitary defect to the local authority, and it shall be the duty of the local authority to take all necessary action under that enactment to cause the nuisance to be  
25 abated or the defect to be remedied, and if the local authority fails to act within seven days, the Inspector shall give notice concerning the matter to the Medical Officer of Health.

(2) For the purposes of this section and the *last*  
30 *preceding* section the Inspector shall have the same power of entry on and inspection of any building, yard, or place adjacent to a factory as if those premises were part of the factory.

35 **77.** (1) Every Medical Officer of Health and Inspector of Health, and every other officer of the Department of Health authorized in writing in that behalf by the Director-General of Health or by a Medical Officer of Health, shall have the same powers and authorities as Inspectors of Factories under the  
40 provisions of this Act and of any regulations there-under imposing requirements as to health, and sections

Proceedings as to nuisances or sanitary defects under other Acts.

*Cf.* 1921-22, No. 42, s. 52 (a), (d)

Powers of officers of Department of Health.

*Cf.* *ibid.*, s. 52 (b), (c) 1945, No. 39, s. 5

*five to seven, fifty-four to seventy-six, seventy-nine, eighty-one, eighty-two, eighty-four, eighty-eight, and ninety-five* hereof shall extend and apply as if the references therein to Inspectors included Medical Officers of Health, Inspectors of Health, and the aforesaid other officers of the Department of Health. 5

(2) If it appears to any Medical Officer of Health, Inspector of Health, or other such officer of the Department of Health as aforesaid that proceedings should be taken for an offence under this Act in relation to any matter affecting health, he may require an Inspector of Factories to take proceedings accordingly. 10

#### *Safety and Health and Welfare Regulations*

Special regulations for safety, health, and welfare.

*Cf. Factories Act, 1937, ss. 3 (3), 4 (2), 5 (2), 7 (2), 42 (2), 43 (2), 60 (Imp.)*

78. (1) Where the Governor-General is satisfied that any manufacture, machinery, plant, process, or description of manual labour used in factories is of such a nature as to cause risk of bodily injury to, or injury to the health of, persons employed in connection therewith, or any class of those persons, he may from time to time make such regulations under this Act as appear to him to be reasonably practicable and to meet the necessity of the case. 15 20

(2) Without prejudice to the generality of the *last preceding* subsection, regulations made for the purposes of that subsection may— 25

- (a) Prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, process, or description of manual labour: 30
- (b) Prohibit, limit, or control the use of any material, or process: 30
- (c) Modify or extend with respect to any class or description of factory any provisions of this Act, being provisions imposing requirements as to safety or health or welfare: 35
- (d) Impose duties not only on occupiers, but also on owners of factories, or premises in which factories are situate, persons employed in factories, and other persons. 40

(3) The Governor-General may also, from time to time, make regulations under this Act prescribing what may be regarded as adequate, effective, sufficient, or suitable provision in respect of ventilation, lighting, temperature, sanitary conveniences, washing facilities, accommodation for clothing, arrangements for drying clothing, facilities for sitting, first-aid facilities, appliances, or requisites, or canteens.

## GENERAL

10                    *Requisitions by Inspector*

79. In any case where in the opinion of the Inspector any provision of this Act imposing requirements as to safety, health, or welfare is not being observed or complied with or is being insufficiently observed or  
15 complied with in relation to any factory, or in any case where in the opinion of the Inspector there is any defect whatsoever in any factory, the Inspector may, by requisition to the occupier, require that the requirements of the Act be duly and properly observed and  
20 complied with, or, as the case may be, that the defect be remedied to the satisfaction of the Inspector.

Inspector may require any defect to be remedied.

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

Liability of owner as to cost of alterations.  
Cf. 1921-22, No. 42, s. 66 (h)

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

(3) The owner or his agent shall have the right at any time within *fourteen* days after the copy of the requisition is served on him as provided in subsection *one* hereof to appeal to a Magistrate against the requisition, and the provisions of section *eighty-two* hereof shall apply accordingly. 5

Form and  
service of  
requisitions.  
Cf. 1921-22,  
No. 42, s. 66  
(a) to (c)

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

(2) A requisition to the occupier of a factory may be addressed to and served on the occupier under his usual business name or style. 10

(3) A requisition to an occupier may be served either by delivering it to any person who comes within the definition of the term "occupier" in section *three* hereof, or by posting it by registered letter addressed to the occupier at the factory. A requisition so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered. 15

(4) The requisition, when served as aforesaid, shall bind every person who by virtue of the definition of the term "occupier" in section *three* hereof is deemed to be an occupier of the factory. 20

Appeals against  
requisitions.  
Cf. *ibid.*, s. 66  
(d) to (g)

82. (1) If any occupier considers any requisition by an Inspector to be unreasonable he may appeal to a Magistrate by filing in the Magistrate's Court nearest to the factory a notice of appeal in the prescribed form, setting forth with reasonable particularity the grounds of the appeal. A copy of the notice of appeal shall be served on the Inspector. 25 30

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

(3) Upon the notice of appeal being duly filed the Magistrate shall fix a time and place for the hearing of the appeal, being the earliest convenient time, and the Clerk of the Court shall, by notice in the prescribed form, notify the appellant and the Inspector of the time and place fixed for the hearing of the appeal. 35

(4) On the hearing of the appeal the Magistrate may by order confirm, reverse, or modify the requisition, as he thinks fit, and the order shall be final and binding on all parties. 40

83. If an occupier of a factory fails to comply with a requisition of an Inspector within such time as may be fixed by the requisition or by the Magistrate on appeal, or, if no time for compliance is so fixed, within  
 5 a reasonable time, the Inspector, in his discretion and without prejudice to the liability of the occupier in respect of any offence under this Act, may cancel the registration of the factory and refuse to re-register it, or on the expiry of a period of registration may refuse  
 10 to re-register the factory, until the requisition is complied with.

Registration of factory may be refused or cancelled for non-compliance with requisition.

#### *Offences, Penalties, and Procedure*

84. (1) In every case where under this Act any requirement, obligation, rule, or provision is imposed  
 15 or enacted or required to be observed with respect to or in connection with any factory, the conduct of its business, the treatment of the persons employed therein, or otherwise howsoever, the occupier shall cause such requirement, obligation, rule, or provision to be duly  
 20 and faithfully complied with or observed, and if the requirement, obligation, rule, or provision is not duly and faithfully complied with or observed the occupier commits an offence and shall be liable accordingly.

Offences.  
*Cf.* 1921-22,  
 No. 42, s. 53

(2) In any case where under this Act any requisition  
 25 of an Inspector is served on the occupier of a factory and the requisition is not duly complied with within such time as may be fixed by the requisition or by the Magistrate on an appeal, or, if no time for compliance is so fixed, within a reasonable time, the occupier  
 30 commits an offence and shall be liable accordingly.

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

Fine where no specific penalty provided.  
*Cf.* *ibid.*, s. 57

86. (1) In any proceedings against the occupier of a factory in respect of the non-observance of, or non-compliance with, any requirement, obligation, rule, or  
 40 provision under this Act relating to safety or to health or welfare, the Magistrate, in addition to or instead of imposing a fine, may by order require the defendant

Power to order contravention to be remedied.  
*Cf.* *ibid.*, s. 60

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, the requirement, obligation, rule, or provision, and may specify a time within which the order shall be obeyed. The time so specified may from time to time be extended by the Magistrate on the application of the defendant. 5

(2) If the Magistrate makes the order instead of imposing a fine, he shall adjourn the proceedings until the expiry of the time specified in the order. If the order is duly obeyed he may, if he thinks fit, impose no penalty in respect of the offence. 10

(3) If default is made in duly obeying the order within the time or extended time specified in that behalf, the defendant commits an offence and shall be liable to a fine not exceeding *five* pounds for every day during which the default continues. The fine imposed by this subsection is irrespective of any fine to which the defendant is liable in respect of the original offence. 15

Fine on parent or guardian if young person employed in breach of Act. Cf. 1921-22, No. 42, s. 55

87. In every case where a person under sixteen years of age is employed in a factory in breach of this Act, then, irrespective of the fine to which the occupier of the factory is liable, the parent or guardian of the person so employed commits an offence and is liable to a fine not exceeding *five* pounds and to a further fine not exceeding *one* pound for each day during which the offence continues unless he satisfies the Court that the person under sixteen years of age was so employed without his knowledge, consent, or connivance. 20 25

Forgery of certificate, &c. Cf. *ibid.*, s. 54

88. Every person commits an offence and is liable to a fine not exceeding *one hundred* pounds, or to imprisonment for a term not exceeding *three* months, who— 30

- (a) Forges, counterfeits, or fraudulently alters any certificate, consent, notice, requisition, or other document which an Inspector is authorized to give or issue under this Act; or 35
- (b) Uses any such document knowing the same to be forged, counterfeited, or fraudulently altered; or 40
- (c) Personates any person named in any such document; or
- (d) Wilfully makes any false entry in any register, notice, or book required or authorized under this Act; or 45



(e) Gives, issues, or uses any certificate, consent, notice, or other document under this Act knowing the same to be untrue in any material particular.

5 89. (1) Where the occupier of a factory is charged with an offence under this Act, he shall be entitled upon information duly laid by him to have any other person whom he alleges to be the actual offender brought before the Magistrate on the same charge; and to  
10 enable both charges to be heard together, the charge against the occupier may be adjourned for such time as the Magistrate thinks reasonable.

Occupier may have actual offender charged.  
Cf. 1921-22, No. 42, s. 59

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

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

(b) That the occupier had done all that could  
20 reasonably be expected of him to prevent the offence,—

that other person shall be convicted of the offence, and the occupier shall not be guilty of the offence.

(3) If, before the commencement of any proceedings  
25 against the occupier of a factory in respect of any offence under this Act, the Inspector is satisfied that if any other person were charged with the offence under the foregoing provisions of this section that other person would be convicted of the offence, the Inspector  
30 shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier. In any such case the provisions of the *last preceding* subsection shall, with the necessary modifications, apply notwithstanding that no proceedings  
35 have been commenced against the occupier.

90. (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 Magistrate alone.

Proceedings to be before Magistrate alone.

Cf. *ibid.*, s. 58

40 (2) Except as provided in the *last preceding* section, all such proceedings as aforesaid shall be taken only on the information or complaint of an Inspector.

Provisions as to  
procedure.

Cf. 1921-22,  
No. 42, ss. 58,  
61

91. (1) An Inspector who lays an information or makes a complaint in respect of any offence or matter under this Act shall not be called on to prove that he is an Inspector. Any such information or complaint may be proceeded with and conducted by the same or any other Inspector or by any person permitted by the Magistrate to conduct the same. 5

(2) In any proceedings under this Act it shall be sufficient in the information or complaint to allege that the factory is a factory and to state the name of the ostensible occupier of the factory, or the style or title under which the occupier is usually known or carries on business. Any information or complaint may from time to time be amended as to the actual name of the defendant. 10 15

(3) In any proceedings under this Act it shall lie upon the defendant to bring himself under any exemption, proviso, excuse, or qualification; and it shall not be necessary for the same to be negatived in the information or complaint. 20

(4) A defendant may, except in proceedings under section *eighty-eight* hereof, be called by the Inspector, and shall be compellable to give evidence as a defendant in a civil action is compellable. 25

(5) Several charges or complaints against the same person, or several charges pursuant to section *eighty-nine* hereof, may be heard together if the Magistrate 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 Magistrate shall so order; and in all such cases a witness sworn to give evidence respecting one charge or complaint shall for all purposes be deemed a witness in respect of each charge or complaint. 30

(6) In any proceedings on an information, any order which the Magistrate is empowered to make may be made without a complaint being made, notwithstanding anything to the contrary in the foregoing provisions of this Act. 35

(7) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form. 40

92. 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 45

Right of  
appeal.

Cf. *ibid.*, s. 62

the Supreme Court in the manner provided by the Justices of the Peace Act, 1927.

93. In any proceedings against the occupier of a factory for employing any person therein in breach of this Act, the fact of the person being found in any room in which the work of the factory is going on shall be conclusive evidence that the person was then being employed in the room, unless the defendant satisfies the Court that the person was not being employed but was there either against the orders or without the knowledge, consent, or connivance of the occupier, or for the sole purpose of bringing food for persons employed in the factory.

94. The payment by the occupier of a factory 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.

#### Miscellaneous Provisions

95. Notwithstanding anything to the contrary in the foregoing provisions of this Act, if an Inspector has issued any requisition or given any direction, exemption, authorization, or consent, whether upon or subject to any conditions or not, the same or any other Inspector may withdraw the requisition or take further steps thereon, or revoke or from time to time vary the direction, exemption, authorization, or consent, or any condition upon or subject to which it has been given.

96. In counting for any of the purposes of this Act the number of persons employed in a factory, the occupier, or, if the occupier is married, then the occupier together with husband or wife, as the case may be, shall be considered as one person so employed.

97. All awards and industrial agreements under the Industrial Conciliation and Arbitration Act, 1925 (whether made before or after the commencement of this Act), shall be read subject to the provisions of this Act:

Provided that nothing herein shall be construed to reduce the rate of wages payable to any worker pursuant to any award or industrial agreement or to increase his working-hours as fixed by any such award or agreement.

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

Evidence as to employment in breach of Act. Cf. 1921-22, No. 42, s. 56

Civil liability to pay overtime or wages not affected. Cf. *ibid.*, s. 63

Matters may be completed by different Inspector.

Mode of computing persons employed in factory. Cf. *ibid.*, s. 65

Awards and industrial agreements to be read subject to this Act. Cf. 1936, No. 7, s. 19

1945, No. 39, s. 4 (1)

See Reprint of Statutes, Vol. III, p. 939

Annual report.  
Cf. 1921-22,  
No. 42, ss. 68,  
69

98. (1) The Minister shall in the month of June in each year, or as soon thereafter as practicable, make a report in writing to the Governor-General as to the operation of this Act during the year ended the thirty-first day of March then last past. 5

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

(3) The report shall be laid before Parliament within fourteen days after it has been made if Parliament is then in session, and, if not, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session. 10

Regulations.  
Cf. *ibid.*, s. 70

99. (1) The Governor-General from time to time, by Order in Council, may make regulations for any purpose for which regulations are contemplated or required by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof. 15 20

(2) Regulations made under this Act may be so made as to apply generally throughout New Zealand or within any specified part or parts thereof or within the whole of New Zealand, except such part or parts as may be specified in the regulations. 25

(3) Regulations made under this Act may be so made as to apply to all factories or to any class or description of factories or parts of factories, and may provide for the exemption of any specified class or description of factory either absolutely or subject to conditions. 30

(4) No regulation under this Act shall be deemed to be invalid on the ground that it delegates to or confers on the Governor-General or on any Inspector or other person or body any discretionary authority. 35

Act not to  
apply to  
shearers.  
Cf. *ibid.*, s. 73

See Reprint  
of Statutes,  
Vol. I, p. 151

Repeals and  
savings.

100. This Act shall not apply to shearers or shearing-sheds, or in any way affect the Shearers' Accommodation Act, 1919.

101. (1) The enactments mentioned in the *Third* Schedule to this Act are hereby repealed. 40

(2) All offices, appointments, registers, registrations, regulations, requisitions, orders, records, certificates,

5 notices, and generally all acts of authority that originated under any of the enactments hereby repealed, or that are deemed to have so originated and that are subsisting or in force on the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

10 (3) All matters and proceedings commenced under any such enactment and pending or in progress on the commencement of this Act, may be continued, completed, and enforced under this Act:

15 Provided that the Court of Arbitration may, notwithstanding the repeal of section four of the Factories Amendment Act, 1945, dispose of any application for the adjustment of wages made under that section before the commencement of this Act as if that section had not been repealed. 1945, No. 39

20 (4) It is hereby declared that the Labour Legislation Emergency Regulations 1940 shall, while they remain in force, apply to this Act and any regulations thereunder to the same extent as they applied before the commencement of this Act to the enactments repealed by this Act, and every order made by the Serial number  
1940/123  
25 Minister under the Labour Legislation Emergency Regulations 1940 shall, while it remains in force, be read as if references therein to the provisions of any of the enactments repealed by this Act were references to the corresponding provisions of this Act.

## SCHEDULES

Schedules.

### FIRST SCHEDULE

#### FEES ON REGISTRATION OF FACTORY

Where the maximum number of persons to be employed in the factory exceeds two hundred and fifty	£	s.	d.
.. .. .	5	5	0
Where such number exceeds one hundred but does not exceed two hundred and fifty	3	3	0
Where such number exceeds fifty but does not exceed one hundred	2	2	0
Where such number exceeds ten but does not exceed fifty	1	1	0
Where such number exceeds three but does not exceed ten	0	10	0
Where such number does not exceed three	0	1	0

**SECOND SCHEDULE****FACTORIES IN RESPECT OF WHICH SECTIONS TWENTY-EIGHT,  
TWENTY-NINE, AND THIRTY ARE MODIFIED**

Factory or Class of Factory.	Reference to Order in Council in Statutory Regulations or <i>Gazette</i> .
Coal-gas works .. .. .	Serial No. 1936/2
Dairy factories (including creameries) ..	,, 1936/2
Electric-power generating and transforming factories	{ ,, 1936/2
Smokeless Fuel and Briquettes (Canterbury), Limited	,, 1936/11
Fruit-packing and fruit-grading factories ..	,, 1938/5
Factories occupied for the purposes of any aircraft service as defined in the Transport Licensing (Commercial Aircraft Services) Act, 1934, in respect of certain workers	,, 1938/79
Sugar of milk factories .. .. .	,, 1939/61
Waikato Carbonization, Limited .. .. .	<i>Gazette</i> , 1940, Vol. III, p. 2741.

**THIRD SCHEDULE****ENACTMENTS REPEALED**

- 1921-22, No. 42.—The Factories Act, 1921-22 (see Reprint of Statutes, Vol. III, p. 198).
- 1936, No. 7.—The Factories Amendment Act, 1936.
- 1936, No. 16.—The Finance Act, 1936: Section 47.
- 1937, No. 38.—The Statutes Amendment Act, 1937: Section 11.
- 1938, No. 20.—The Statutes Amendment Act, 1938: Section 17.
- 1941, No. 26.—The Statutes Amendment Act, 1941: Section 25.
- 1944, No. 25.—The Statutes Amendment Act, 1944: Section 23.
- 1945, No. 39.—The Factories Amendment Act, 1945.