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THE LAW

RELATING TO

FACTORIES AND SHOPS
IN VICTORIA.

(COMPLETE TO 3RD FEBRUARY, 1920.)

COMPILED BY

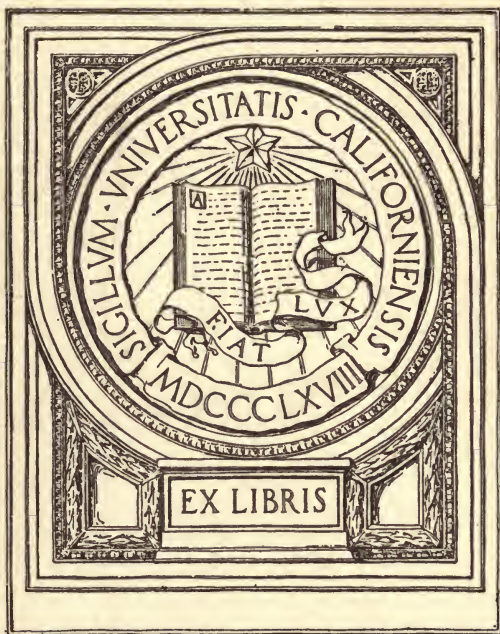
H. M. MURPHY,

Secretary to the Department of Labour.

Price 1s. 6d.

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This Handbook contains the following Acts—**DOCUMENTS**
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Act No. 2650—*Factories and Shops Act 1915.*
In force 1.10.1915.

Act No. 2845—*White Phosphorus Matches Prohibition Act 1916.*
In force 6.11.1916.

Act No. 2875—*Statute Law Revision Act 1916.*
In force 28.12.1916.

Act No. 3048—*Factories and Shops Act 1919.*
In force 1.1.1920.

Repealed sections of the Act No. 2650 are in most cases omitted. Where an amendment has been made in a section by another Act, the number and section of the Amending Act are given, and the alterations from the original text are indicated by the **use of different type**. For convenience of arrangement, Act No. 2845 has been placed at the end of the *Factories and Shops Act 1915*.

And in addition—

Copies of regulations in force on 3rd February, 1920 ;

Tables of shop-closing hours and other matters suitable for tabulation ;

Particulars of cases decided on Factories and Shops law by the higher courts ; and

An Index.

25c

No. 2650.

(As amended by No. 2845, 2875, and 3048.)

An Act to consolidate the Law relating to the Supervision and Regulation of Factories and Shops.

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the Authority of the same as follows (that is to say) :—

1. This Act may be cited as the *Factories and Shops Act* 1915 and shall come into operation on the first day of October, One thousand nine hundred and fifteen, and is divided into Parts and Divisions as follows :—

Short title, commencement, and division.

(The rest of this section is omitted as unnecessary for the purposes of this book.)

2. The Acts mentioned in the First Schedule to the extent to which the same are thereby expressed to be repealed are hereby repealed. Provided that such repeal shall not affect any rule regulation appointment by-law order registration application declaration determination or award made, or any petition presented, or any notice notification permit or certificate given, or any licence granted, or any fee fixed, or any resolution passed, or any information laid, or action or proceeding pending, or any order or direction in force under the said Acts or any of them before the commencement of this Act.

Repeal. First Schedule.

PART I.—INTRODUCTORY.

DIVISION I.—INTERPRETATION.

3. In the construction of this Act unless inconsistent with the context or subject-matter—

Interpretation.

“Apprentice” means any person under twenty-one years of age bound by indentures of apprenticeship or any person over twenty-one years of age who with the sanction of the Minister* is bound by indentures of apprenticeship :

* Permission may be granted under section 189.

Except in cases where permission has been obtained under section 189 (a) all apprentices unless bound for at least three years are deemed to be improve^{rs} for the purpose of the Factories and Shops Acts—*vide* section 190.

"Chief Inspector."	"Chief Inspector" means the chief inspector of factories and shops :
"Child."	"Child" means a boy under the age of fourteen years or a girl under the age of fifteen years as the case may be :
"Council."	"Council" means the council of any city town borough or shire :
"Factory."	"Factory" means any office building or place— in which four or more persons are employed directly or indirectly in working in any handicraft or in preparing or manufacturing articles for trade or sale ;*

* The defendant was the proprietor of a registered factory in which nails were manufactured. Some of these nails were sent from the factory to a shop close by, also occupied by the defendant, where three girls and one boy were engaged in packing the nails so sent into cartons and boxes.

On the hearing of an information for not registering the shop as a "factory" under the Factories Acts the Magistrates convicted the defendant.

Held, affirming the conviction that the persons employed in the shop were employed in preparing the nails for sale, and that, therefore, the shop was a "factory" within the meaning of the *Factories and Shops Act 1905*. *Alderson v. Gold 1909*, V.L.R. 219, 15 A.L.R. 180, 30 A.L.T. 189.

A "factory" as defined in the *Factories and Shops Act 1896* (N.S.W.) is "any office building or place in which four or more persons are engaged directly or indirectly . . . in preparing or manufacturing articles for trade or sale."

Held, that the expression "preparing articles for trade or sale" involves the doing of some act to or in relation to the articles themselves which effects some alteration in their character or condition for the purpose of making them fit for trade or sale. The unpacking of soft goods from cases in which they were received, marking them for sale, and repacking them for delivery to purchasers is not "preparing them for trade or sale" within the meaning of the section. *Henry Bull and Co. Limited v. Holden*, 13 C.L.R. 569, 18 A.L.R. 506.

Four or more persons were engaged on defendant's premises in—

- compressing wool into smaller compass for shipment, in order to reduce freight charges;
- sorting, drying, and spraying with preservative sheepskins, to prevent weevils from attacking them pending and during shipment;
- salting hides to preserve them pending and during shipment.

All the goods had previously been sold in the local market, and were in defendant's premises pending shipment by the purchasers, for whom defendant was treating them.

Held, that none of these operations was a preparing for trade or sale within the meaning of the *Factories and Shops Act 1912*, sec. 5, and that defendant's premises did not require registration as a factory.

Quere, whether the drying of the skins and salting of hides might not, if done prior and incidentally to sale locally, be a "preparing" for trade or sale.—*Billingham v. New Zealand Loan and Mercantile Agency Company Limited*, 1914 V.L.R., 321.

A place where electricity is generated for the supply of heat or light or power to tenants of the person generating it is a factory within the meaning of the *Factories and Shops Act 1912*.

Per a'Beckett, A.C.J.—A place where electricity is generated for the supply of heat or light or power to the person generating it is a factory within the meaning of the *Factories and Shops Act*.

Per Hodges and Hood, J.J.—A place where electricity is generated for the supply of heat or light or power is only a factory if such electricity is supplied to persons other than the person generating it.—*Tipple v. Geelong Harbor Trust Commissioners*, 1914 V.L.R., 407.

in which one or more Chinese persons are or is employed directly or indirectly in working in any handicraft or in preparing or manufacturing articles for trade or sale ;

in which one or more persons are or is employed and in which steam water gas oil or electric power is used in preparing or manufacturing articles for trade or sale ;

in which one or more persons are or is employed and in which furniture is prepared or manufactured ;

in which one or more persons are or is employed and in which any bread or pastry is made or baked for sale ;

in which electricity is generated for the supply of heat or light or power ;

in which coal gas is made ; and also

any clay-pit or quarry worked in connexion with and occupied by the occupier of any pottery or brickyard ;

Where the operations of any manufacturer are carried on for safety or convenience in several adjacent buildings grouped together in one enclosure these shall be classed and included as one factory for the purpose of registration and for the computation of registration fees ;*

A person shall be deemed and taken to be employed whether he is or is not working on his own account or behalf or for hire or reward either directly or indirectly :†

“ Furniture ” means furniture of which wood forms a part and such as is usually made by cabinet-makers chair and couch makers upholsterers wood carvers or wood turners : “ Furniture.”

“ Handicraft ” includes any work whatsoever done in any laundry or dye-works and whether or not done in preparing or manufacturing articles for trade or sale : “ Handicraft.”

* For purposes of registration and computation of fees, two buildings, occupied by one firm, but separated by a public street and connected by a sub-way under that street, are separate factories.

† As to when a person is “ employed,” see *Ballantyne v. Hinchcliffe*, 21 A.L.R. 24, noted at section 168.
See also Section 43.

<p>“Improver.”</p> <p>S. 2 No. 3048.</p>	<p>“Improver” means any person (other than an apprentice)* who does not receive a piece-work price or a wages rate fixed by any Wages Board for persons other than apprentices or improvers and who is not over twenty-one years of age or who being over twenty-one years of age holds a licence from the Minister to be paid as an improver: †</p>
<p>“Inspector.”</p>	<p>“Inspector” means an inspector of factories and shops appointed ‡ or continued in office under the authority of this Act and includes the chief inspector and the assistant chief inspector :</p>
<p>“Laundry.”</p>	<p>“Laundry” shall be deemed not to include any institution or place in which the only persons employed are—</p> <p>(a) inmates of any prison reformatory or industrial school or other institution for the time being subject to inspection under any Act other than this Act ; or</p> <p>(b) inmates of an institution conducted in good faith for religious or charitable purposes.</p>
<p>“Mill-gearing.”</p>	<p>“Mill-gearing” includes every shaft whether upright oblique or horizontal and every wheel drum or pulley or other appliance by which the motion of the first moving power is communicated to any machine appertaining to a manufacturing process :</p>
<p>“Part.”</p>	<p>“Part” means Part of this Act :</p>
<p>“Prescribed.”</p>	<p>“Prescribed” means prescribed by this Act or by any regulations made pursuant to this Act :</p>
<p>“Regulations.”</p>	<p>“Regulations” means regulations under this Act :</p>
<p>“Schedule.”</p>	<p>“Schedule” means Schedule to this Act :</p>
<p>“Shop.”</p>	<p>“Shop” § means any building or portion of a building or place or any stall tent vehicle or pack in which goods are exposed or offered for sale by retail and includes any rooms of hairdressers or barbers and boot repairers’ shops and the rooms of dyers and clothes cleaners commonly known as dyers’ shops and clothes cleaners’ shops ;</p>

* Except in cases where permission has been given under section 189, apprentices, unless bound by indentures of apprenticeship, which bind the employer to instruct such apprentice for at least three years, are deemed to be improvers ; section 190.

† Issued under section 194 *post*.

‡ Provision is made for appointment in section 10.

§ “Small shops” are defined in section 89.

“Shopkeeper” means the occupier of a shop and “Shopkeeper.” includes a hawker or pedler.*

“Week” means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

DIVISION 2.—APPLICATION OF ACT.

4. Except where otherwise expressly provided the provisions of this Act shall apply to factories and shops wherever situate in Victoria. Application of Act to all factories and shops in Victoria.
5. The provisions of section one hundred and twenty-seven of this Act shall apply to all cities and towns and may from time to time be extended by the Governor in Council to any borough or to any part or parts of a shire within ten miles of any such city town or borough.† Power to extend provisions as to carting and delivery of goods.
6. Where any city town borough or shire is bounded whether in whole or in part by any lake or by the sea-shore all provisions of this Act and determinations of **Wages** Boards which are in operation in such city town borough or shire shall within a distance of three miles from such boundary be operative also in all parts of such lake or the sea. Application of Act and determinations where municipal district bounded by lake or sea-shore. S. 2 No. 3048.
7. The expression “process trade business or occupation” or any expression including one or more of such words when used in this Act or in the Determination of a **Wages** Board refers either to the process or trade or business or occupation of the employer or to that in which the employé is employed or to both as the case may require; and any employé in a factory doing work for which a **Wages** Board has fixed a wages rate or a piece-work price shall be paid for such work at the rate fixed therefor by such Board. Process trade business or occupation. S. 2 No. 2875. S. 2 No. 3048. Ibid.
8. The Governor in Council may at any time by Order published in the *Government Gazette* revoke alter or vary any order made pursuant to the provisions of this Act. Power to revoke orders.
9. Nothing in this Act shall apply to persons engaged in dairying agriculture horticulture viticulture or pastoral pursuits in any shire town or borough outside the Metropolitan District‡ as defined in this Act. Exemptions from provisions of Act.

* Hawkers and pedlers are shopkeepers under the Acts, but are not to be counted in petitions for regulating the hours of shop closing. See also section 9 Act 3048.

† The only extensions made under this section were to the boroughs of Eaglehawk, Geelong West, Newtown and Chilwell, and Sebastopol.

‡ Defined in section 82.

PART II.—ADMINISTRATION OF ACT.

DIVISION 1.—INSPECTORS.

Appointment of Chief Inspector and inspectors. 10. (1) Subject to the provisions of the *Public Service Act 1915* the Governor in Council may from time to time appoint a chief inspector an assistant chief inspector and so many inspectors of Factories and Shops as may appear necessary for the carrying into effect of this Act, and may from time to time remove such chief inspector such assistant chief inspector or such inspectors.

Appointment of police as inspectors. Provided that notwithstanding the provisions of any Act relating to the Public Service, any member of the Police Force may be appointed by the Minister of Labour by writing under his hand to act as an inspector of factories in the district in which he is stationed.

Office of Chief Inspector. (2) The chief inspector shall have assigned to him an office in Melbourne.

(3) The assistant chief inspector—

Duties, &c., of Assistant Chief Inspector.

(a) shall under the control of the chief inspector have and may exercise such powers functions or duties (whether statutory or otherwise) of the chief inspector as may be assigned to him in writing by the chief inspector either generally or in any particular case ; and

(b) shall act in the place of the chief inspector in case of the illness absence or temporary incapacity of the chief inspector.

(4) All acts matters and things done or performed by such assistant chief inspector pursuant to this section shall for all purposes have the same force and effect as if done or performed by the chief inspector.

Districts.

(5) The Minister may for the purposes of this Act divide Victoria into such and so many districts as he thinks fit and allot or assign one or more districts to one or more inspectors.

Certifying medical practitioners.

DIVISION 2.—CERTIFYING MEDICAL PRACTITIONERS.

11. (1) The Minister may on the recommendation of the Board of Public Health appoint any persons being legally qualified medical practitioners to be

certifying medical practitioners* for the purposes of this Act and may allot or assign one or more districts under this Act to one or more certifying medical practitioners and the Minister may at any time remove any person so appointed.

(2) In any part of Victoria for which there is not a certifying medical practitioner appointed pursuant to the provisions of this Act, every public vaccinator shall without further or other authority than this section be and act as certifying medical practitioner within any district or part thereof or place for which he is a public vaccinator.

Public vaccinators to act as certifying medical practitioners in certain parts.

DIVISION 3.—SECRECY OF RECORDS.

12. Any inspector who divulges the contents of any record of persons employed in or of the work done in or outside of any factory except to the Minister or the officers of his Department and any inspector or officer of such Department who makes use of his knowledge of the contents thereof except for the purpose of the compilation of general statistical information as required by this Act or for the purpose of enforcing the provisions of this Act shall be guilty of a misdemeanour.† Provided that for the purpose of tracing persons who have evaded naval or military training the Minister may once in every year authorize any officer of the Department of Defence of the Commonwealth of Australia to inspect such records.

Inspector divulging contents of record.

Officer not to divulge.

Power of Minister to authorize inspection of records for special purpose.

DIVISION 4.—ANNUAL REPORT.

13. (1) The chief inspector shall prepare an annual report for the Minister.

Chief Inspector to report annually.

(2) Such report shall be of a general and comprehensive character for the purpose of informing Parliament of the course and conditions of national trade.

(3) Such report shall not refer by name to any particular occupier of a factory or be so framed as to readily admit of the identification of any such occupier.

(4) Such report shall show as nearly as possible the whole number of persons engaged in working in factories in Victoria, classifying them according to their sex age and

* For fetts and duties see the regulations at page 147. Under section 46 a certificate from a certifying medical practitioner is required before a factory occupier can legally employ any person under sixteen in those factories named on page 146. Factories not so mentioned are nevertheless affected by the *Education Act 1915*. The section which applies is quoted in full on page 24, and requires that before any person under sixteen may be employed in any factory a certificate of birth or a certificate under the hand of a head teacher shall be filed by the occupier of the factory.

† For provisions as to secrecy with regard to the names and addresses of out-workers see section 195.

average weekly earnings whether in wages or by piece-work or both in wages and by piece-work in each branch, their hours of labour the percentage of work done in the factories and the percentage of work done outside thereof, together with such other particulars of the same general nature as the Minister may require.

PART III.—FACTORIES.*

DIVISION 1.—REGISTRATION.†

Notice of
occupation of
factory.

14. (1) Every person or body of persons—
going into or being in occupation of any factory
shall within fourteen days of such going into
or being in occupation; or

* WHAT CONSTITUTES A FACTORY ?

(See section 3.)

1. Four persons working together in any place in any handicraft or manufacture.
2. One person working in any place—
 - (a) If steam, water, gas, oil, or electric power is used.
 - (b) If furniture is made.
 - (c) If bread or pastry is made.
 - (d) If electricity is made.
 - (e) If coal gas is made.
 - (f) If the place is a quarry attached to a pottery or brickyard.
 - (g) If the person is a Chinese.

Every factory must be registered at the Department of Labour, Spring-street, Melbourne (section 14).

Any person desiring to register a factory is advised to act as follows:—Write to Secretary for Labour, Melbourne, who will send an Inspector to the address given. The Inspector will bring the necessary forms and assist in their completion, and will give any explanation required.

If the factory is situated in the country, call on the nearest member of the Police Force. If he is not an Inspector of Factories or unable to supply forms and information, write to the District Inspector of Factories or to the Secretary for Labour, Melbourne.

Before a factory can be registered, it must be certified by both the Municipal Council and the Department of Labour, that the place complies with all the requirements of the Regulations (page 11). These requirements will be found set out in detail in this Handbook, but shortly stated they are—

- (1) *Air Space*.—At least 400 cubic feet per person employed. If the ceiling is more than 13 feet above the floor, the space above that height is not counted (page 131).
- (2) *Ventilation*.—Ordinarily 12 square inches of outlet and of inlet for each person. See the regulation on page 131.
- (3) *Lighting*.—Doorways, passages, and stairs must be sufficiently lighted (page 132).
- (4) *Fire escape*.—Ordinarily a primary and an alternative way of escape is required. See the regulation on page 132.
- (5) *Stairs and Landings* must be constructed in the manner prescribed (page 132).
- (6) *Fire Extinction*.—Fire hose, buckets, and taps or alternatively chemical fire extinguishers.
- (7) *Egress Doorways, Approaches to Doorways, Doors, and Gateways*.—As prescribed (page 133).
- (8) *Heating Appliances* must be provided where such are considered necessary (page 134).
- (9) *Lavatories*.—One basin for every twenty males and one for every twenty females (page 134).
- (10) *Sanitary Accommodation*.—One closet for every twenty or fraction of twenty persons. Separate accommodation for the sexes with separate approaches. Also urinals.

†For the regulations see p. 128.

being in occupation of any building or place which becomes for the first time or after a period of disuse again becomes a factory shall within fourteen days of such building or place becoming or again becoming a factory—

serve on the chief inspector at his office a written notice in such form as may be prescribed by regulations.*

(2) Such notice shall specify—

particulars of the name of such person and a description of the factory ;

the place where it is situate ;

the nature of the work carried on or to be carried on therein ;

a description of the motive power (if any) therein ;

the name of the person or firm under which the business of the factory is carried on ; and

such other particulars as may be prescribed.

Particulars in notice.

(3) Any person who is guilty of a contravention of this section shall be liable to a penalty of not more than Ten pounds. Penalty.

(4) If it be shown that all the requirements of this Act have been fulfilled, the chief inspector shall issue a certificate of registration of such factory on payment of the registration fee as hereinafter provided. † Certificate.

15. (1) Every person or body of persons who is in occupation of any office building or place which is about to become for the first time, or after a period of disuse is about to again become a factory, shall before the same is used or again used as such, forward to the council for the district full particulars as to such office building or place in such manner as may be prescribed. † Approval of council to opening of factory.

(2) Such office building or place shall not be registered as a factory until such council or the chief inspector has in writing certified that such office building or place is suitable for a factory, and that the prescribed requirements have been complied with. Certificate of suitability, &c.

* Page 128.

† For fee see section 17 and the schedule at p. 122.

‡ The regulations at p. 130.

Register.

16. (1) Every factory of which particulars are forwarded to the chief inspector as hereinbefore provided shall on payment by the occupier thereof or by the employer of the persons working therein (hereinafter termed the "occupier") of the registration fee† for the year in which the same is registered be registered in a register to be kept for that purpose in the office of the chief inspector.

Particulars of register.

(2) In such register shall also be entered all the particulars which are by this Act directed to be forwarded to the chief inspector together with such other particulars as may from time to time be deemed necessary by the Minister or chief inspector.

(3) Nothing in this section contained shall be deemed to require or authorize an entry in such register of any particulars other than those required by this Act or by the regulations to be forwarded to the chief inspector prior to the registration of any such factory.

Registration fee.
Second
Schedule.

17. (1) The registration fee to be paid in respect of every factory shall be that specified in the Second Schedule,‡ and shall in each and every year be paid on or before the thirty-first day of January by the occupier of such factory.§

Half-fee where
factory, &c.,
opened after
30th June.

(2) When any factory is opened during any year after the thirtieth day of June the fee to be paid on registration for that year shall be one-half of the rate specified in the said Schedule.

Penalty.

(3) Any occupier of a factory which is not registered as in this Act provided shall be liable to a penalty of not more than Ten pounds.||

† Section 17 *post* and the schedule at p. 122.

‡ Schedule will be found at p. 122.

§ All these fees should be posted to or delivered at the Chief Inspector of Factories' Office, Spring-street, Melbourne. Cheques or money orders, but not stamps, are accepted. Whenever there is any transfer from one firm or one individual to another, any change in the constitution of the firm, or any change to other premises, a fresh fee is payable.

|| Where a room has already been registered as a factory, the sub-lessee of portion of that room is not required to register his portion separately.

DIVISION 2.—INSPECTION.

18. † Every inspector shall for the purposes of the ^{Power of} execution of this Act have power ‡ to do all or any of the ^{Inspectors.} following things, namely :—

- (a) To enter inspect and examine at all reasonable times by day or night a factory § and every part thereof when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory :
- (b) to take with him || in either case a member of the police force where he has reasonable cause to apprehend any serious obstruction in the execution of his duty :
- (c) to enter inspect and examine at all reasonable times by day or night any place whatsoever when he has reasonable cause to believe that any person is employed therein at work for which a **Wages Board** has fixed prices or rates : S. 2 No. 3048.
- (d) to require the production of all pay-sheets or books wherein an account is kept of the actual wages (whether by piece-work or not) paid to any individual employé in any place to which the Determination of any **Wages Board** applies ^{ibid.} and to take copies or extracts from the same :
- (e) to require the production of the certificate of registration books registers certificates notices lists and documents kept in pursuance of this Act or of any regulations made hereunder and to inspect examine and copy the same :
- (f) to make such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health and the enactments of this Act are complied with so far as respects the factory and the persons employed therein :

† The penalty for obstructing an Inspector will be found in section 236.

‡ For powers as to shops, see sections 122-4.

§ For powers of entry as to steam-boilers, see section 57.

|| As to power to take an interpreter with him see section 19. He may also take officers of health in certain cases.—Section 28.

- (g) to enter any school in which he has reasonable cause to believe that persons employed in a factory are for the time being educated :
- (h) to examine either alone or in the presence of the occupier or employer or of his agent or servant with respect to matters under this Act every person whom he finds in a factory or such a school as aforesaid, or whom he has reasonable cause to believe to be or to have been within the preceding two months* employed in a factory or at work for which a **Wages Board** has fixed prices or rates, and to require such person to be so examined and to sign a statutory declaration as to the truth of any statements made by him as to the matters respecting which he is so examined :
- (i) to exercise such other powers as may be necessary for carrying this Act into effect.

S. 2 No. 3048.

Inspector may be accompanied by an interpreter.

19. (1) Every inspector when entering inspecting and examining any factory pursuant to any of the provisions of this Act may take with him into such factory any person who in the opinion of such inspector is qualified to act as an interpreter.†

Effect of inquiry &c. by interpreter.

(2) Any inquiry or requisition to any occupier or his agent or employé or any person made on behalf of such inspector by the person so acting as interpreter shall for all purposes be deemed to have been actually made by the inspector, and the answer thereto when made by an occupier agent employé or person to the person acting as interpreter shall be deemed to have been actually made to the inspector.

Obstruction of interpreter.

(3) Any person who obstructs any person so acting as an interpreter shall be deemed to have obstructed the inspector in the execution of his duties and shall be punishable accordingly.‡

Occupier of factory &c. to assist inspector in inspection.

20. (1) The occupier of every factory his agents and servants shall furnish the means required by an inspector or by an officer of the Board of Public Health

* "Month" means calendar month—*Acts Interpretation Act.*

† For similar provisions as to shops, see section 123.

‡ Penalty—section 236.

or of the council necessary for an entry inspection examination and inquiry or the exercise of his powers under this Act in relation to such factory.

(2) Every person who—

(a) wilfully delays an inspector in the exercise of any power under this Act; or

(b) fails to comply with a requisition of an inspector made under any such power as aforesaid, or to produce any certificate of registration book register certificate notice list or document which he is required by or in pursuance of this Act to produce; or

(c) conceals or prevents any person from appearing before or being examined by an inspector or attempts so to conceal or prevent a person,

shall be deemed to obstruct an inspector in the execution of his duties under this Act.

(3) No person shall be required under this section or the two last preceding sections to answer any question or give any evidence tending to criminate himself.

Obstruction of inspector.

Evidence.

21. (1) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to a factory or school shall if required produce to the occupier or schoolmaster such certificate.

Certificates of appointment of inspector.

(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 such certificate or falsely pretends to be an inspector under this Act, shall be liable to imprisonment with or without hard labour for a term of not more than three months.*

DIVISION 3.—KEEPING OF RECORDS.

22. (1) In each and every factory there shall be made a true record in such form and giving such particulars as may be prescribed† as to the names work and wages of the persons employed therein and the name and age of every such person who is under twenty-one years of age and such record shall be produced for inspection

Record of employes to be kept and notice to be affixed in factory.

* Section 238 provides a punishment for forging other certificates, for making false entries and declarations.

† The regulations at p. 155.

whenever demanded by the inspector and shall be forwarded annually to the chief inspector at such time as may be prescribed* or whenever demanded by the chief inspector.

Information to be posted in factory.

(2) There shall be kept printed painted or affixed in legible Roman characters in some conspicuous place at or near the entrance of each and every factory, and in such other parts as an inspector from time to time directs, and in such a position as to be easily read by the persons employed in such factory a notice containing—

- (a) the name and address of the inspector for the district;
- (b) the name and address of the certifying medical practitioner for the district;
- (c) the holidays and the working hours of the factory; and
- (d) true copies or abstracts of such parts of this Act and regulations thereunder as may be prescribed or as may be directed by the Minister.†

Name of occupier to be posted outside factory.

(3) There shall also be kept printed painted or affixed in legible Roman characters, in such place as an inspector may direct or approve, near to the outside of the principal outer door of every factory the name of the occupier thereof, or if such occupier is a company the registered name of such company, or if such occupier is a firm of persons the firm name of such firm.

Record of fines.

(4) There shall also be affixed in legible Roman characters in such place in every factory as an inspector may direct or approve a detailed record of all fines levied upon his employés by the occupier of such factory. A copy of such record of fines shall be forwarded by the occupier of every factory to the chief inspector periodically at such times and in such form as may be prescribed.‡

Penalty.

(5) In the event of a contravention of any of the provisions of this section in regard to any factory, the occupier thereof shall be liable to a penalty of not more than Twenty shillings for every day during which any of the said provisions are not complied with.

Record of outside work done for certain factories to be kept.

23. (1) Every occupier of a factory who has work done elsewhere than in his factory shall keep a record. Such record shall be kept in such manner and give such particulars as may be prescribed‡ and so as to be a substantially

* The regulations at p. 155.

† A copy of any Determination of a Wages Board which applies to any factory, shop, or place must be kept printed, painted, or affixed in such factory, shop or place.—Section 169.

‡ The regulations at p. 158.

correct record of the description and quantity of the work done outside of such factory and of the name and address of the person by whom the same is done and the prices paid in each instance for such work.*

(2) In default of so keeping such record such occupier shall be liable to a penalty not more than Two pounds for every day for which without reasonable excuse the record is not kept as aforesaid. Such record shall be kept for the information of the inspectors, who alone shall be entitled to inspect and who may at all reasonable hours examine the same. Penalty.

(3) Every occupier of a factory shall forward such record to the chief inspector for his information whenever demanded by him, and shall forward to such inspector periodically at such times as may be prescribed a copy or summary of every such record in such form as may be prescribed.† Copy &c. of record to be supplied to Chief Inspector on demand or periodically,

(4) Notwithstanding anything contained in this Act, the chief inspector shall publish in the *Government Gazette* for general information any such particulars contained in any such record as the Governor in Council from time to time thinks it necessary or desirable so to publish, including if the Governor in Council thinks fit the name and address of any such occupier. and may be published by authority of Governor in Council.

(5) No such particulars shall be so published except in regard to or in connexion with some contravention of this Act for which such occupier has been convicted. Limitation on publishing.

(6) Every person who issues or gives out or authorizes or permits to be issued or given out any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel or boots or shoes for trade or sale shall be deemed to be the occupier of a factory for the purposes of this section. Meaning of occupier in this section.

(7) No person shall be convicted of a contravention of this section if he proves— Exemption.

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the alleged offence no reason to suspect that his act would be a contravention of this section, and

(b) that on demand made by or on behalf of the inspector he gave all information in his power with respect to the alleged offence, or

* Such work must only be given out to registered workers.—Section 196.

† The regulations at p. 158.

- (c) that otherwise he had acted innocently and *bonâ fide* and without any intention to evade the provisions of this section.

DIVISION 4.—CLEANLINESS AND VENTILATION.

Sanitary condition of factory.

24. (1) The occupier of every factory shall keep the same in a cleanly state and also free from any effluvia arising from any drain privy urinal or nuisance.

(2) A factory or any portion thereof—

(a) shall not be so overcrowded* while work is carried on therein as to be injurious to the health of the persons employed therein ;

(b) shall contain such amount of cubical space* for each person employed and such amount of ventilation* as may be prescribed ;

(c) shall be ventilated in such a manner as to render harmless as far as practicable all the gases vapours dust or impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health;†

(3) Every heating appliance in any factory whether used for warming persons therein engaged or for the manufacturing process shall be provided with a flue of such size and construction as may be prescribed‡.

(4) A factory in or in connexion with which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.§

DIVISION 5.—CANCELLATION OF REGISTRATION OF DEFECTIVE FACTORY—PROVISIONS FOR SAFETY.

Registration of defective factory may be cancelled in certain cases.

25. (1) The chief inspector shall give to the occupier of any factory which or any part of which is in his opinion dilapidated unsafe unfit for use or injurious to health or insufficiently provided with privies‡ or urinals or with satisfactory approaches to such privies or urinals or with proper appliances for the extinction of fire* or with sufficient means of egress* in case of fire written notice of such opinion.

* See the regulations at pp. 131-135.

† For cases in which ventilation by a fan is required, see section 29.

‡ The regulations at p. 134.

§ Penalty—Section 233.

(2) A copy of the notice shall also be sent by the chief inspector to the council, and the council shall within two months from the date of receiving such notice from the chief inspector inform him whether the necessary repairs or improvements have or have not been effected.

(3) Unless such council, within two months from the date of such notice by the chief inspector, signifies to the chief inspector its approval of the continued use of such factory, the chief inspector may lay an information before the Court of Petty Sessions that the occupier has failed to comply with the provisions of this section and on such information may summon him to appear before the Court of Petty Sessions and show cause why the registration of such factory should not be cancelled; and the Court of Petty Sessions unless satisfied that such factory or such part thereof is not defective in any of the matters set forth in the notice sent by the chief inspector shall make an order directing the cancellation of such registration.

Power to cancel registration where part of factory unsafe.

26. (1) Where in any regulations it is provided that the council or the chief inspector may require that in any office place or building there shall be appliances* (including fire-buckets full of water) for the prevention or extinction of fire such appliances shall be maintained in a constant state of repair and available for use at any moment.

Fire prevention appliances to be kept ready for use.

(2) A factory in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.†

27. (1) All doors passages and staircases in or in connexion with any factory shall be kept clear and free from obstruction of any kind whatever and be always available as a means of escape.

Doors &c. to be kept clear of obstructions.

(2) Any person who in any way whatever obstructs or permits to be obstructed any such door passage or staircase or places or permits to be placed any obstruction in or near any such door passage or staircase shall be liable for the first offence to a penalty of not more than Five pounds, and for every subsequent offence to a penalty of not less than Five nor more than Twenty pounds.

* The regulations at p. 133.

† Penalty—Section 233.

Proof of
obstruction.

(3) In any prosecution for a contravention of this section the occupier of the factory shall be deemed to have permitted the obstruction of any door passage or staircase unless the defendant proves that such obstruction was in contravention of his express orders or instructions.

DIVISION 6.—REMEDYING OF DEFAULTS AND NUISANCES.

Notice by
inspector to
council of
sanitary defects
in factory.

28. (1) Where it appears to an inspector that any act neglect or default in relation to any drain watercloset earthcloset privy ashpit water supply nuisance or other matter in a factory is punishable or remediable under the law relating to public health but not under this Act such inspector shall give notice in writing of such act neglect or default to the council in whose district the factory is situate.

Council to act.

(2) Thereupon it shall be the duty of such council to make such inquiry into the subject of the notice and take such action thereon as to such council may seem proper for the purpose of enforcing the law; and the powers conferred by section three hundred and twenty-three of the *Health Act 1915* upon councils with respect to factories or buildings in which more than twenty persons are gathered or employed or intended to be gathered or employed at one time may be exercised with respect to any factory under this Act by the Board of Public Health as well as by any council in whose district any such factory is situate; and the provisions of the said last-mentioned Act for enforcing the requirements of any such council shall apply and extend to the enforcing of such requirements of such council and of the Board of Public Health.

Power of
inspector.

(3) An inspector may for the purposes of this Act or any Act relating to public health take with him* into a factory an officer of health inspector of nuisances or other officer of the Board of Public Health or of the council; and any such officer of health inspector of nuisances or other officer of the Board of Public Health or of the council may at all reasonable times enter and inspect any factory.

DIVISION 7.—PREVENTION OF DUST.

Provision as to
ventilation by
fan in factories.

29. Where in any factory grinding glazing or polishing on a wheel or any process is carried on by which dust is generated and by the workers inhaled to an

* As to an inspector of factories' powers of entry, see section 18.

injurious extent, and it appears to an inspector that such inhalation could be to a great extent prevented by the use of a fan or by other mechanical means the inspector may direct a fan or other mechanical means of a proper construction for preventing such inhalation to be provided within a reasonable time; and if the same is not provided maintained and used the factory shall be deemed not to be kept in conformity with this Act.

DIVISION 8.—LIMEWASHING.

30. (1) For the purpose of securing the observance of the requirements of this Act as to cleanliness in every factory all the inside walls of the rooms of a factory and all the ceilings or tops of such rooms (whether such walls ceilings or tops are plastered or not) and all the passages and staircases of a factory if they have not been painted with oil or varnished once at least within seven years shall be limewashed or washed with some other wash liquid or material approved by the chief inspector once at least within every fourteen months, to date from the date when last limewashed or washed, and if they have been so painted or varnished shall be washed with hot water and soap once at least within every fourteen months, to date from the date when last so washed.

Limewashing or washing of the interior of factories.

(2) A factory in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

(3) Where it appears to the Minister that in any class of factories or parts thereof the requirements of this section are not necessary for the purpose of securing therein the observance of the requirements of this Act as to cleanliness or are by reason of special circumstances inapplicable he may if he thinks fit on the recommendation of the Board of Public Health by order made under this Act grant to such class of factories or parts thereof a special exception that the requirements of this section shall not apply thereto.

Power to Minister to grant exemptions.

(4) This section shall not apply to blacksmiths' agricultural implement makers' and wheelwrights' shops foundries flour mills saw mills bone mills tanneries rope-walks smelting works hay and corn chaff-cutting corn-crushing wool-washing or boiler-making establishments.

Non-application to certain trades.

31. All the inside walls of the rooms of every bakehouse and all the ceilings or tops of such rooms (whether

Limewashing, painting, and washing of the interior of bakehouses.

such walls ceilings or tops are plastered or not) and all the passages and staircases of such bakehouse shall either be painted with oil or varnished or be washed with lime or some other wash material or liquid approved of by the chief inspector or be partly painted or varnished and partly so washed ; where painted with oil or varnish there shall be three coats of paint or varnish and the paint or varnish shall be renewed at least once in every seven years, and shall be washed with hot water and soap once at least in every six months ; where otherwise washed, such washing shall be renewed once at least in every six months.

A bakehouse in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.*

DIVISION 9.—SLEEPING PLACES.

Sleeping places
in factories
forbidden.

32. (1) No person shall use or permit to be used as a sleeping place any part of a factory in which any of the operations of the factory are generally or occasionally carried on. For the purposes of this section all space on each floor, except such part as is separated by a permanent substantial wall, or partition extending from floor to ceiling, shall be deemed to constitute one part of a factory.

(2) Any person contravening any of the provisions of this section shall be liable for the first offence to a penalty of not more than Two pounds and for every subsequent offence to a penalty of not less than One pound nor more than Five pounds.

(3) The onus of proof that the provisions of this section have not been contravened shall in all cases be on the defendant.

Provision as to
sleeping places
near bakehouses.

33. (1) A place on the same level with a bakehouse and forming part of the same building shall not be used as a sleeping place unless it is constructed as follows (that is to say) :—

unless such sleeping place is effectually separated from the bakehouse by a partition extending from the floor to the ceiling ; and

unless there is an external glazed window of at least nine superficial feet in area, of which at least four and a half superficial feet are made to open for ventilation.

* Penalty—Section 233.

(2) Any person who lets or occupies or continues to let or knowingly suffers to be occupied any place contrary to the provisions of this section shall be liable for the first offence to a penalty of not more than Twenty shillings, and for every subsequent offence to a penalty of not more than Five pounds.

DIVISION 10.—MEALS OF EMPLOYÉS.

34. (1) No male under eighteen years of age and no female shall except on half-holidays or when it appears to the Minister after due inquiry that the exigencies of trade require the suspension of the provisions of this section be employed continuously in any factory for more than five hours without an interval of at least half-an-hour for a meal. Interval for meals.

(2) When it appears to the Minister that the exigencies of trade require the suspension of the provisions of this section he may suspend the same, and such suspension shall be notified under his hand and such notification shall be published in the *Government Gazette*.

(3) Nothing in this section contained shall refer to a factory in which the process of printing* newspapers is carried on.

35. (1) No person employed in a factory shall be permitted to take his or her meals in any room therein in which any manufacturing process or handicraft is then being carried on or in which persons employed in such factory are then engaged in their employment, unless such factory is of open construction and is certified to by the chief inspector as being properly exempted from this provision. Meals not to be taken in room where employ are working or in certain cases where employ have been working.

(2) Where any manufacturing process handicraft or employment has been declared by the Governor in Council to be noxious for the purposes of this Act, no person employed in the factory in which any such manufacturing process handicraft or employment is carried on shall be permitted to take his or her meals in any room therein in which such manufacturing process handicraft or employment is then being carried on or in which persons employed in such factory are or have been in the course of the day engaged in their employment; and the occupier of every such factory shall cause a fit and proper room to be provided within which the persons employed may take their meals without the provisions of this Act being contravened. Nor rooms wherein noxious employments carried on.

* For restrictions as to employing young persons as type-setters in printing offices, see section 42.

Exemption.

(3) If it is made to appear to the Minister that for any reason it is unnecessary that such a room should be provided in any such factory he may by licence under his hand exempt for any period not exceeding one year the occupier of such factory from so much of the provisions of the last preceding sub-section as require such a room to be provided.

s. 3 No. 3048.

Power of Minister to require dining-rooms bath-rooms &c. to be provided for use of employees.
ibid.

(4) The Minister may from time to time in writing require the occupier of any factory shop or place to provide—

- (a) a dining-room for the use of employees ;
- (b) a bath-room for the use of employees ;
- (c) a rest-room for female employees.

DIVISION 11.—AGES AND WORKING HOURS OF EMPLOYÉS.

Children not to be employed.
Female children over fourteen to be allowed to work in factories in certain cases.

36. No child* shall be employed in any factory.

Provided that the Chief Inspector may grant to any female child over the age of fourteen years who is not required to attend school under the *Education Act 1915*† permission to work in a factory if he is satisfied that the poverty of the parents or guardians of the child makes it desirable for the child to get employment and that the interests of the child will be best served by commencing work in a factory without waiting till such child becomes legally eligible so to work.

Working hours for females and boys.

37. (1) No person shall employ in a factory any male under sixteen years of age or female of any age—

- (i.) for more than forty-eight hours in any week, or
- (ii.) for more than ten hours on any day, or
- (iii.) later than Nine o'clock in the evening.

* A boy under fourteen or a girl under fifteen—section 3. The penalty is provided in section 234.

† Section 48 sub-section (3) of the *Education Act 1915* requires that before a child under sixteen may be employed either a certificate of birth or a certificate from a head teacher shall be filed by the factory occupier. When making application for permission for a girl of fourteen to work in a factory, this certificate should be brought and shown to the Chief Inspector of Factories.

For purposes of reference the sub-section of the *Education Act* is hereto appended.

“(3) Before any child apparently under sixteen years of age is employed or permitted to be employed in any factory or work-room within the meaning of the *Factories Acts* the occupier of such factory or work-room shall obtain from such child a certificate of birth or a certificate under the hand of the principal teacher of the school which such child last attended stating that the school records show that such child is of the age required under the *Factories Acts* to permit of such employment; and every such certificate shall be filed by the occupier of the factory or work-room, and shall be open to the inspection of any person authorized by the Minister; but this sub-section shall not affect any child lawfully employed in a factory or work-room at the commencement of this Act.”

Compare section 11 and sections 46 and 47.

Provided that in order to meet an unforeseen press of work such employment may be extended to fifty-seven hours in any week but in not more than eight weeks in any one year subject to the following conditions :—

Provision for unforeseen press of work.

(a) Payment for overtime shall be made for the time so worked at the rate of time and a half on wages rates or Threepence an hour extra on piece-work prices (as the case may be) and in addition each worker shall receive One shilling for tea-money for each day so worked ;

Conditions.

(b) No such person shall be employed more than forty-eight hours in any one week without his or her consent ;

(c) No such person shall be employed for more than ten hours on any day or later than Nine o'clock in the evening ;

(d) A book containing a detailed list showing the date upon which the overtime was worked the overtime worked the name of worker and the hours of overtime shall be kept in a convenient place in the factory where any employé may at any time inspect it ; and a notice in the form of the Third Schedule accompanied by a fee of Two shillings and sixpence for registration and a full statement of the reasons for working such overtime signed by the occupier shall be posted or delivered to the chief inspector within forty-eight hours after each week in which overtime is worked.†

Third Schedule

(2) If the Minister is not satisfied that such working was *bonâ fide* for the purpose of meeting an unforeseen press of work he shall give notice in writing of such dissatisfaction to such occupier and unless the occupier of such factory within one month from such notice proves to the satisfaction of the Minister that such working was *bonâ fide* for such purpose the Minister shall direct the chief inspector to make a

Effect of non-compliance with conditions

† Schedule will be found at p. 123. Provision is also made for payment of overtime and tea-money in other cases, *e.g.*, shops generally (section 114) Fourth Schedule shops, &c. (section 119), and carters (section 132).

record that such working was not *bonâ fide* for such purpose; and if the Minister directs such record to be made in regard to any occupier of a factory three times within any period of twelve months such occupier shall not thereafter at any time be entitled to avail himself of the provisions of this section.

Calculation of time.

(3) On any day all males under sixteen years of age and all females employed in any capacity in a factory shall (meal times excepted) be deemed to be employed in a factory from the time when they enter the same until the time when they leave.

Penalties.

(4) If any person offends against the provisions of this section he shall for each and every contravention of this section be liable for the first offence to a penalty of not more than Five pounds and for any subsequent offence to a penalty of not less than Two pounds or more than Twenty pounds.*

(5) Nothing in this section shall affect or modify the provisions of section forty-one of this Act.

38. (1)—

Limitation of working hours in factories where Chinese are employed or furniture made.

(a) In any factory where any Chinese person is at any time employed, and

(b) in any factory where any article of furniture is prepared or manufactured or partly prepared or manufactured,

no person shall on any day before half-past seven o'clock in the morning or after five o'clock in the evening or on a Saturday after two o'clock in the afternoon or on a Sunday at any time whatever work for himself or for hire or reward either directly or indirectly or employ or authorize or permit any person whomsoever so to work.

Penalty.

(2) If any person offends against any of the provisions of this section he shall for each and every day in which he offends be liable for a first offence to a penalty of not more than Ten pounds, and for a second or subsequent offence†

* One member of a firm may be convicted of an offence against the provisions of this section, although the other members of the firm are not joined in the prosecution. If an employer have knowledge that one of his servants or agents intends to commit a breach of the provisions of the Act, and neglect to take effectual steps to prevent such a violation of the law, he will be liable for the act of his servant or agent.—*Goodsir v. Henderson*, 13 V.L.R. 125, 8 A.L.T. 190. See also section 228.

† A person may be convicted of a second offence under this section although the information does not charge him with a second offence. *Reg. v. San Fick*, 3 A.L.R., C.N. 26.

to a penalty of not less than Five nor more than Twenty five pounds ; and the registration of a factory the occupier of which is convicted under this section of a third offence shall be forthwith cancelled by the chief inspector.

(3) In any prosecution for an offence against this section evidence—

- (a) that at any time during which work is prohibited by this section in any factory sounds have been heard such as would ordinarily be heard if made by persons engaged in such factory in the usual work therein carried on ; and
- (b) that during such time any member of the police force or inspector was refused or could not gain immediate admission to such factory,

shall be *prima facie* proof that the provisions of this section have been contravened by the defendant.

(4) In any prosecution for a contravention of this section the occupier of a factory shall be deemed to have permitted a person to work if any person whosoever is proved to have been working in the factory of such occupier during the time when work is prohibited.

(5) In order to meet the exigencies of trade the Minister may on payment of a fee of Two shillings and sixpence and subject to such conditions and restrictions as he thinks fit to impose suspend the operation of this section in any one or more factories for any period not more than two months and any such suspension may at any time revoke.

(6) For the purposes of this section "work" shall be deemed and taken to include performing any of the operations usually carried on in the factory.*

39. (1) In a part of a factory in which there is carried on—

- the process of silvering of mirrors by the mercurial process, or
the process of making white lead,

a person under eighteen years of age shall not be employed.

(2) In a part of a factory in which the process of melting or annealing glass is carried on, a female under eighteen years of age shall not be employed.

* Before the enactment of this provision "work" was held to mean "work at a factory" and therefore the section was held not to apply to a Chinese ironing his own shirt during the prohibited hours in a Chinese laundry.—*Ingham v. Hie Lee*, 15 C.L.R., 267 ; 18 A.L.R., 453.

of girls under 16
in certain
employments ;

(3) In a factory in which there is carried on—

- (a) the making or finishing of bricks or tiles not being ornamental tiles, or
(b) the making or finishing of salt,

a female under sixteen years of age shall not be employed.

of persons under
16 in metal
grinding and
lucifer-match
dipping.

(4) In a part of a factory in which there is carried on—

- (a) any dry grinding in the metal trade, or
(b) the dipping of lucifer matches,

a person under sixteen years of age shall not be employed.

(5) Notice of the prohibition in this section shall be affixed in all factories to which it applies.

Protection of
workers in wet
spinning.

40. (1) No male under eighteen years of age and no female shall be employed in any part of a factory in which wet spinning is carried on unless sufficient means are employed and continued for protecting the workers from being wetted and (where hot water is used) for preventing the escape of steam into the room occupied by the workers.

(2) A factory in which there is a contravention of the provisions of this section shall be deemed not to be kept in conformity with this Act.

Limitation of
time for
employment of
girls.

41. No female under sixteen years of age shall work in any factory between the hours of six of the clock in the evening and six of the clock in the morning.

Restriction in
employment of
young persons
as type-setters.

42. No male under sixteen years of age or female under eighteen years of age shall work as type-setter in any printing-office for longer than eight hours, nor between the hours of six o'clock in the evening and six o'clock in the morning, except in a case of emergency with the permission of the Minister, and then only on the condition that for twelve hours preceding and for twelve hours following such night work such male or female shall not be employed.

Definition of
employment and
working for hire.

43. (1) A male under eighteen years of age or a female who works in a factory whether for wages or not either in a manufacturing process or handicraft or in cleaning any part of a factory used for any manufacturing process or handicraft or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with any manufacturing process or handicraft or connected with the article made or otherwise the subject

of any manufacturing process or handicraft, shall save as is otherwise provided by this Act be deemed to be employed within the meaning of this Act.

(2) For the purposes of this Act, an apprentice shall be deemed to work for hire.

44. Where any person is employed in any capacity in a factory during any day or week, then all the time during which such person is employed at any work whatsoever for the occupier of the factory during such day or week shall be deemed for the purposes of this Act to have been time worked in such factory.*

How hours of work are to be reckoned.

DIVISION 12.—POWER OF SUMMONING OFFICERS UNDER THE EDUCATION ACT.

45. Any person holding the office of summoning officer in the Education Department may enter any factory during the time when any persons employed therein are at work and inspect any part thereof where any persons are engaged in working and may also examine the record of ages of persons under twenty years of age and interrogate personally any person or require the production of a certificate of birth or other sufficient evidence so as to enable him to determine the age of any such person so employed or working.

Power to visit factories and inquire as to young persons' ages.

DIVISION 13.—CERTIFICATION OF FITNESS FOR EMPLOYMENT OF PERSONS UNDER SIXTEEN YEARS.

46. (1) No person under the age of sixteen years shall be employed in any factory unless the occupier of the factory has obtained a certificate in the prescribed form† of the fitness of such person for employment in that factory; or if such certificate of fitness is not required has obtained and produces when demanded by any inspector a certificate of birth or declaration as to age as hereinafter provided‡.

Certificate of fitness for employment of persons under 16 in factories.

(2) A certificate of fitness for employment for the purposes of this Act may be granted§ by a certifying medical practitioner|| for the district, and shall be to the effect that he is satisfied by the production of a certificate of birth or

* For similar provision as to shops see section 115.

† The regulations at p. 147.

‡ Section 47.

§ Fee, 2s. 6d.—Regulation at p. 147.

|| Appointed under section 11.

other sufficient evidence* that the person named in the certificate of fitness is of the age therein specified† and has been personally examined by him and is not incapacitated by disease or bodily infirmity for working daily for the time allowed by law in the factory named in the certificate.

(3) Notwithstanding anything contained in this section a certificate of fitness for employment shall be required only in such cases as may be prescribed‡ or in such cases as the chief inspector owing to special circumstances by written notice requires.

Supplemental provisions as to certificates of fitness for employment.

47. (1) All factories or any of them may be named in the certificate of fitness for employment if the certifying medical practitioner is of opinion that he can truly give the certificate for employment therein.

(2) The certificate of birth (which may be produced to such certifying medical practitioner) shall either be a certified copy of the entry in a register of births kept in pursuance of any Act relating to the registration of births deaths and marriages of the birth of the person or a statutory declaration as to the age of the person.

(3) Where a certificate of fitness for employment is to the effect that the certifying medical practitioner has been satisfied of the age of the person by evidence other than the production of a certificate of birth, an inspector may by notice in writing annul the certifying medical practitioner's certificate if he has reasonable cause to believe that the real age of the person named in it is less than that mentioned in the certificate, and thereupon that certificate shall be of no avail for the purposes of this Act.

(4) The occupier shall when required produce to an inspector at the factory in which a person under sixteen years of age is employed the certificate of fitness of such person for employment which he is required to obtain under this Act.§

* The sufficiency of evidence appears to be a matter for the discretion of the certifying medical practitioner, subject to the inspector's power, under section 47, to annul the certificate.

† See section 222 (m) as to admissibility of a declaration by the certifying medical practitioner, as evidence of age.

‡ The regulations at p. 146. This section only requires factories named in these regulations to insist on these certificates. Section 48 of the *Education Act* 1915 requires either a certificate of birth or a head teacher's certificate for persons under sixteen in *all* factories. The last-named section will be found printed at the foot of page 24

§ Section 46.

48. Repealed by section 2 Act No. 2845. (See page 121.)

DIVISION 15.—MINIMUM WAGE.

49. (1) No person whatsoever unless in receipt of a Minimum wage in factory. weekly wage of at least Two shillings and sixpence shall be employed* in any factory.

(2) No person whatsoever unless related in the first or second degree by blood or marriage to the employer shall be employed outside a factory in wholly or partly preparing or manufacturing any article for trade or sale unless in receipt of a weekly wage of at least Two shillings and sixpence.

DIVISION 16.—PERSONS IN CHARGE OF STEAM-ENGINES OR BOILERS.†

50. (1) No person shall be placed in charge of any Persons in charge of steam-engines or boilers to hold certificates. steam-engine or boiler used in or in connexion with any factory unless such person holds a certificate of service or of competency granted by the Board of Examiners for engine-drivers under the *Mines Act* 1915 or any Act thereby repealed.

(2) Every such steam-engine or boiler when in use shall be under the control and in the charge of a person who holds such a certificate.

51. (1) A certificate of service shall authorize the holder to take charge of a steam-engine or boiler used in or in connexion with a factory. What service to authorize engineer to take charge of engines in factories.

(2) The Board of Examiners empowered in that behalf shall not grant any certificate of service unless to a person who satisfies them that he has for at least twelve months prior to the first day of October, One thousand eight hundred and ninety-six had experience which would qualify Experience. him to take charge of the working of a steam-engine or boiler used in or in connexion with a factory.

* As to meaning of "employed" see *Ballantyne v. Hinchcliff*, noted at p. 83.

† The regulations will be found at p. 148.

Certificates of competency for engine-drivers for factories.

(3) The said Board of Examiners is hereby empowered subject to regulations* to hold examinations and to examine persons who may be desirous of qualifying themselves as engine-drivers for factories only and to grant certificates of competency to such persons as successfully pass the prescribed examination or satisfy the said Board that they have passed an equivalent examination before some authority recognised by the Governor in Council for the purpose.†

Power to issue classes of certificates.

(4) The Board of Examiners of engine-drivers appointed under any Act relating to mining shall as from the first day of March One thousand eight hundred and eighty-six be deemed to have had and to have power to issue various classes of certificates of service and competency to engine-drivers and to boiler attendants under this Act.

Power to grant certificates of service under this Act.

52. Notwithstanding anything to the contrary in the *Mines Act* 1915 the Board of Examiners shall subject only to such conditions as may be prescribed* grant a certificate of service to every person who by the operation of this Act is required to hold a certificate of competency or of service from such Board and who furnishes to such Board satisfactory evidence that during at least twelve months within three years prior to the first day of October, One thousand eight hundred and ninety-six, he was in sole charge of and efficiently managed a steam-engine or boiler (as the case may be) in Victoria.

Special authority necessary for certificates of service.

53. Notwithstanding anything hereinbefore contained a certificate of service shall not in any case be granted unless specially authorized by the Governor in Council.

Power to disqualify certificated engine-driver upon offence or misconduct.

54. (1) Any person holding a certificate of competency or of service granted by the said Board of Examiners and who is charged with any offence or misconduct likely to be detrimental to the proper or efficient discharge of his duties may be called upon by the Board of Examiners

* The regulations will be found at page 148.

† The Board of Examiners observe the following rule in the interchange of certificates:—A 1st class mining certificate has no equivalent factory certificate; a 2nd class mining certificate is equal to 1st class factory certificate; a 3rd class mining certificate is equal to 2nd class factory certificate. Neither the 3rd class factory engine-driver's certificate nor that for boiler attendants has any corresponding mining certificate.

to show cause why he should not be disqualified as a certificated engine-driver or boiler attendant.*

(2) If he fails to satisfy the said Board he may by an Order of the Governor in Council published in the *Government Gazette* be disqualified for any period from acting as an engine-driver or boiler attendant and any such person shall after such Order deliver into the charge of the said Board his certificate of competency or of service which shall be retained by the said Board during the period of his disqualification.

(3) If any such person during the period of his disqualification take charge of any steam-engine or boiler he shall be liable to a penalty of not more than Two pounds for every day during which he contravenes this section.

55. In this division the term "factory" wherever it occurs shall be deemed and taken to include any house building premises or place whatsoever where there is used either permanently or temporarily a steam engine or boiler; and every steam-engine or boiler in any such factory shall be under the charge of some person who is the holder of a certificate of service or of competency granted by the said Board of Examiners.

Definition of factory in this Division

56. (1) The provisions of this Division shall not apply to any steam-engine or boiler used on or for the purposes of any farm vineyard garden or orchard or for the exclusive purpose of providing a supply of water for private use.†

Exemptions.

(2) Notwithstanding anything contained in this Act the provisions of this Division shall apply to any steam-engine or boiler used on or for the purposes of any creamery or butter factory.

Creameries and butter factories not exempt.

57. (1) The Governor in Council may at any time by Order‡ published in the *Government Gazette* exempt from the operation of this Division of this Part for such time as he thinks fit any particular class of steam-boilers or any steam-boilers which are used exclusively for any particular trade or business or any particular class of steam-boilers which are used in any particular locality.

Power to exempt certain steam-boilers &c.

* The regulations at p. 153.

† See also section 9 ante which exempts from the operation of this Act persons engaged in dairying, agriculture, horticulture, viticulture, or pastoral pursuits in any shire, town or borough outside the Metropolitan District.

‡ Orders have been made under this section exempting steam-boilers known as Vulcanizers (gazetted 26th June, 1907), the boilers of the Engineering School of the Melbourne University (gazetted 4th January 1912), and all steam boilers known as Goodyear Steam Generators, which are used exclusively for the boot trade in softening wax utilised in connexion with wetting and stitching machines (gazetted 29th July, 1915)

Inspection.

(2) For the purpose of ascertaining whether the provisions of this Division are complied with, every inspector may at all reasonable times enter inspect and examine any house building premises or place whatsoever which he has reason to believe is a factory as therein defined and may make all necessary inquiries from any occupier or employé in such factory, and every such occupier or employé refusing or neglecting to answer any such inquiry shall be liable to a penalty of not more than Five pounds.

DIVISION 17.—ENGINE-DRIVERS' PAY FOR SUNDAY WORK.

Pay of engine-drivers &c. for work done on Sundays.

58. Every person in charge of any steam-engine or boiler who is required under this Act to hold a certificate from the Board of Examiners for Engine-drivers and every person assisting such engine-driver and every fireman working with such engine-driver and every person assisting such fireman shall if required to work on Sunday be paid at the rate of not less than time and a half.*

DIVISION 18.—PROVISIONS AS TO GUARDING MACHINERY, ETC., AND PREVENTING ACCIDENTS.

Occupier to guard dangerous machinery appliances and parts of factory.

59. Every occupier of a factory shall provide guards for—

- (a) all dangerous parts of the machinery of the factory ;
- (b) all dangerous appliances used in or in connexion with the factory ; and
- (c) all dangerous parts of the factory,

so as to prevent as far as possible loss of life or bodily injury, and shall keep all guards constantly maintained in an efficient state and properly adjusted.†

Power of Minister.

60. (1) For the prevention of accidents the Minister may from time to time by order under his hand—

- (a) direct the occupier of any factory or the occupiers of all factories to take such steps as the Minister deems necessary to prevent the occurrence of accidents ; or

* Under this section an engine-driver is entitled to be paid time and a half for Sunday work. The Determination of the Mining Engine-drivers Board provides that all persons who work more than 48 hours in any one week are to be paid at the rate of time and a quarter. For the purposes of the Factories and Shops Acts the week commences at midnight on Saturday night and ends at midnight on the following Saturday night. (See section 3 ante.)

The question arises whether the work done on Sunday is to be included in calculating the amount of weekly overtime under the Determination. This was tested at the Ararat Court of Petty Sessions on 25th October, 1912, when the presiding police magistrate held that Sunday could not be calculated in the 48 hours to be worked during the week, as it was specially legislated for, and dismissed the case.

† See Section 231.

(b) direct that any specified machine or appliance shall not be used in or in connexion with a specified factory.

(2) If such steps are not taken accordingly within such time as the Minister directs, or if such machine or appliance is used contrary to the order, the factory shall be deemed not to be kept in conformity with this Act.*

61. If any person operates machinery without the guard required by or in pursuance of this Act to be provided for the same or when the guard is removed or not properly adjusted such person and the occupier of the factory shall be severally guilty of an offence against this Act. Penalty for operating machine without guard.

In the construction of sections fifty-nine, sixty-one and two hundred and thirty-one of this Act the word "guard" shall be deemed to extend to and include a fence. "Guard" to include fence.

62. Where the Minister is satisfied that any manufacture plant process or labour used in factories is dangerous or injurious to health or dangerous to life or limb either generally or in the case of women or of persons under twenty-one years of age or of any other class of persons he may certify that such manufacture plant process or labour is dangerous, and thereupon the Governor in Council may make such regulations as may be deemed necessary and reasonably practicable to decrease or prevent danger from such manufacture plant process or labour. Power to make regulations for safety of persons employed in dangerous or unhealthy trades.

* The following orders have been made under this section :—

On 26th October, 1910, chaffcutters were ordered to be guarded in such a way as to prevent the hand of the feeder reaching the rollers. On 2nd June, 1911, buzzer planes were ordered to be guarded by means of a bridge guard completely covering the knives. This order was supplemented on 12th December, 1911, by a further order allowing factory occupiers to guard their buzzer planes either by means of the bridge guard already mentioned or by the disappearing guard invented by Mr. F. W. Rooke, of Messrs. J. and T. Muir's, 37 Capel-street, North Melbourne. On 2nd June, 1911, all power presses for stamping out tops and bottoms of cans, &c., were ordered to be guarded. On 23rd November, 1911, it was ordered that all shaving machines in tanneries should be guarded, as devised by Mr. Alderson, Inspector of Factories, by bringing down the cover and so adjusting it as to leave an opening between the cover and the knives of not more than 5-16ths inch when the roller is brought up to its working position. This order was supplemented on 26th June, 1912. The guard invented by Mr. Geo. Plain, of 4 Cromwell-street, Collingwood, and which might be described as an elaboration of Mr. Alderson's idea, was ordered to be accepted alternatively with the Alderson guard in all tanneries. On 3rd October, 1919, an order was made under this section that Enterprise Mincing Machines (moved by power) with open necks be guarded in such a way as to prevent the hand of the person operating the machine from reaching the worm knives.

Penalty—Section 233.

DIVISION 19.—RESTRICTIONS AS TO YOUNG PERSONS AND WOMEN.

Restriction on cleaning of machinery while in motion or working between parts of self-acting machinery.

63. (1) No female unless her hair is cut short or securely fixed and confined close to her head by net or otherwise and no male wearing any apron or loose garment shall be allowed to work among or near moving machinery.

(2) No male under eighteen years of age and no female of any age shall be allowed to clean mill gearing while the same is in motion or to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam water or other power.

Consequences of breach of restrictions.

64. A male under eighteen years of age or a female allowed to clean or to work in contravention of the last preceding section shall be deemed to be employed contrary to the provisions of this Act.*

Governor in Council may prohibit young persons working at dangerous machinery.

65. (1) The Governor in Council may if he thinks fit by order published in the *Government Gazette* prohibit the employment in any factory of any person whatsoever under the age of eighteen years at or in connexion with any particular machinery or class of machinery specified in such order as dangerous.†

(2) The occupier of any factory in which there is a contravention of any prohibition made under this section shall be deemed to be guilty of a contravention of this Act.

DIVISION 20.—ACCIDENTS.

Notice of accident causing death or bodily injury.

66. Where there occurs in a factory any accident which either—

(a) causes loss of life to a person employed in the factory; or

(b) causes bodily injury to a person employed in the factory and which is of such a nature as to

S. 17 No. 3048.

* Penalty—Section 234.

† An order was made under this section on the 30th March, 1914, prohibiting the employment in any factory of any person whatsoever under the age of eighteen years at—

- (a) any circular saw used for cutting wood,
- (b) any guillotine machine moved by mechanical power,
- (c) any surface planing machine,
- (d) any shaping machine used for shaping wood,
- (e) any stuff-cutting machine used for the purposes of bootmaking,

and on 9th July, 1918, a similar order was made prohibiting the employment in any factory of any person under eighteen years of age at any platen machine used for carton cutting.

prevent the person injured by it from returning to his work in the factory within forty-eight hours after the occurrence of the accident,

written notice of the accident shall forthwith after the expiration of the forty-eight hours be sent to the inspector for the district stating the residence of the person killed or injured or the place to which he has been removed; and if any such notice is not sent, the occupier of the factory shall be liable to a penalty of not more than Five pounds.

67. The Minister may if he thinks fit obtain a report from a medical practitioner or expert upon the nature or cause of such death or injury.* Report on death or injury.

68. Such medical practitioner or expert shall investigate into the nature and cause of such death or injury and for the purposes only of this and the last preceding section shall have the same powers as an inspector and shall also have power to enter any room in a building to which the person killed or injured has been removed. Power to investigate.

PART IV.—STAMPING FURNITURE.

69. (1) All furniture manufactured or sent out of any factory shall be legibly and permanently stamped. Stamping of furniture.

(2) All furniture manufactured or prepared either wholly or partly in Victoria shall as soon as it has been practically completed so as to permit the stamp being placed on it and before it is sent out or removed from the building premises or place in which it is so manufactured or prepared be stamped with a stamp of an indelible permanent ink or stain or impression.† Victorian-made furniture to be stamped.

70. (1) Such stamp shall set forth in legible type the manufacturer's true name and the address of the place in which such furniture was manufactured or Certain particulars to be shown by stamp.

* As to form of report and method of investigation, see regulations at p. 147.

† As to stamping imported furniture, see section 72.

prepared. If such furniture was only partly manufactured or prepared by such manufacturer the words "partly prepared by" shall be stamped above such manufacturer's name and address.

Stamp not to be covered up.

(2) Such stamp shall be placed on some part of such furniture where it can be clearly and easily seen and read upon examining such furniture.*

European.

(3) Where an article of such furniture has been manufactured or prepared solely by European labour such stamp shall also set forth in legible type the words "European labour only."

Chinese.

(4) Where an article of such furniture has been manufactured or prepared solely or partly by the labour of any Chinese person or on the premises of any Chinese employer such stamp shall also set forth in legible type the words "Chinese labour."

European and Chinese.

(5) Where an article of such furniture has been manufactured or prepared partly by European labour and partly by the labour of persons other than Chinese such stamp shall also set forth in legible type the words "European and other labour."

Meaning of "European labour" and "Chinese."

(6) "European labour" means the labour of persons born in Europe or of their descendants whether born in any British colony or possession or in the United States of America or elsewhere, and "Chinese" includes persons having a Chinese father and mother.

Penalties if furniture delivered unstamped or invoice delivered without proper description.

71. Every occupier of a factory or shop—

- (a) who delivers or causes to be delivered to a purchaser any new furniture which is not stamped pursuant to this Act; or
- (b) who without having previously delivered a written statement such as is hereinafter referred to renders or delivers to a purchaser of new furniture an invoice, account, bill or receipt or enters into any time payment or other agreement which does not contain a written statement expressly

* Some articles must be stamped in a specific part. See the regulations at p. 159.

and clearly showing whether such new furniture to which it relates was imported or was made by Chinese labour or by European labour only or by European and other labour—

shall be guilty of an offence and shall be liable for a first offence to a penalty of not more than Five pounds and for every subsequent offence to a penalty of not less than Two nor more than Twenty pounds.

72. All furniture imported into Victoria* for the purpose of sale shall be stamped by the importer or consignee or buyer for the purpose of re-sale thereof within forty eight hours after such furniture has been unpacked with a stamp of an indelible permanent ink or stain; such stamp shall set forth in legible type the words "imported furniture."

Imported
furniture to be
stamped.

73. (1) The stamps upon all furniture—

- (a) imported into Victoria for sale; or
- (b) manufactured in Victoria for sale solely by European labour; or
- (c) manufactured in Victoria for sale partly by European labour and partly by the labour of persons other than Chinese—

Furniture
stamps.

shall be of an oblong shape and shall each (as the case may be) contain the words specified.

(2) The stamps upon all furniture manufactured in Victoria for sale solely or partly by the labour of any Chinese person or on the premises of any Chinese employer shall be triangular in shape and shall contain the words "Chinese labour."

74. The provisions of this Act with regard to the stamping of furniture shall not be deemed to be complied with in the case of wardrobes sideboards tables washstands bookcases cabinets hall stands hall seats dinner waggons church altars cupboards pedestals meat safes chiffoniers kitchen dressers chests of drawers and commodes unless each of the letters with which such articles are stamped is at least one-quarter of an inch long by one-eighth of an inch wide.†

Certain furniture
how stamped.

* As to furniture manufactured or prepared in Victoria, see section 69.

† Most of these articles must be stamped in a specific part. See the regulations at p. 159.

Penalty.

75. Every person—

- (a) who wholly or partly manufactures or prepares furniture and who fails or omits to cause such furniture to be stamped as in this Act provided ;
or
- (b) who exposes for sale or sells any furniture wholly manufactured or prepared by persons other than himself or his immediate employés and stamps the same with his own stamp ; or
- (c) who on any furniture wholly or partly made by persons other than himself or his immediate employés places a stamp implying or stating that such furniture was made by himself only ;
or
- (d) who falsely stamps any furniture ; or
- (e) who exposes for sale or sells or offers for sale any furniture manufactured or prepared either wholly or partly in Victoria which is not stamped pursuant to this Act or which he knows to be falsely stamped ; or
- (f) who removes or erases from or alters or adds to or attempts to remove or erase from or alter or add to any stamp on any furniture—

shall be guilty of an offence* and shall be liable for the first offence to a penalty of not more than Five pounds and for every subsequent offence to a penalty of not less than Two nor more than Twenty pounds.

Stamps to be pointed out to inspector if required.

76. Every occupier of a factory or shop and the agents and servants of such occupier shall whenever so required by an inspector point out to such an inspector where any article of furniture in such factory or shop is stamped in accordance with the provision of this Act. Every person who contravenes the provisions of this section shall be guilty of an offence and shall be liable to a penalty of not more than Five pounds.

* The onus of proof is on the defendant—section 222 (f) and (h).

PART V.—SHOPS.

DIVISION 1.—SATURDAY HALF-HOLIDAY, ETC.

77. All shops in Victoria* (except shops for the sale of fresh uncooked meat hairdressers' shops **tobacconists'** shops and shops of the classes or kinds mentioned in the Fourth Schedule to this Act) shall in every week be closed from the hour of **Nine** o'clock on Friday evening and from the hour of One o'clock on Saturday afternoon.

Closing of all shops in Victoria on Friday evening and Saturday afternoon.
S. 4 (1) No. 3048.
Fourth Schedule.

Provided that the Governor in Council may if he thinks fit from time to time and at any time make regulations—

Power of exemption.

(a) For exempting from the provisions of this section and fixing the hours of closing during the whole of each year or during any part of each year in any municipal district or

* 1st January, 1920.

TABLE showing closing hours for all Shops situated in any part of Victoria *outside the Metropolitan District*, as defined in section 82.

Class of Shop.	Hours of Closing.						Effect of Closing Shop for the whole of a Public Holiday which falls on any Tuesday, Wednesday, Thursday, Friday, or Saturday.
	Mon.	Tu.	Wed.	Th.	Fri.	Sat.	
1. Booksellers and Newsagents	p.m. p.m. p.m. p.m. p.m. p.m. Closing hours not fixed by law. The shopkeeper may therefore decide for himself when his shop shall close						No effect
2. Butchers	7	7	7	7	9	1	May remain open preceding day until 9 p.m.
3. Confectionery and Pastry	Same as No. 1						No effect
4. Cooked Meat (other than tinned meat)	Same as No. 1						No effect
5. Fish and Oyster	Same as No. 1						No effect
6. Flower	Same as No. 1						No effect
7. Fruit and Vegetable	Same as No. 1						No effect
8. Hairdressers and Tobacconists	If Wednesday chosen for half-holiday						} May remain open preceding day until 10 p.m.
	7	7	1	7	7	10	
9. All shops of any kind not mentioned above	If Saturday chosen for half-holiday						} May remain open preceding day until 9 p.m.
	7	7	7	7	9	1	

NOTE.—The hours given in this table are the shop closing hours as fixed by law. The Factories Act however provides for their alteration and variation by regulation wherever a majority of shopkeepers sign a petition. There are so many regulations in force throughout the country districts of Victoria applying to different localities that it would be impracticable to print them here. The hours given above must therefore be taken to be varied wherever such a regulation is in force.

specified locality outside the Metropolitan District all shops or all shops of any class or kind;

(b) For substituting in any municipal district an earlier hour of closing than the said hour of **Nine o'clock on Friday evening.**

(c) For substituting in any municipal district or specified locality outside the metropolitan district a later hour of closing than the said hour of **Nine o'clock on Friday evening.**

S. 4 (1) (a)
No. 3048.
S. 4 (1) (c)
ibid.

Petitions.

78. No such regulations shall be made unless a petition therefor has previously been addressed to the Governor in Council and forwarded to the Minister.

Signatures to petitions.

79. Such petition shall be signed by a majority of all the shopkeepers (exclusive of hawkers and pedlars) keeping shops within the municipal district or specified locality to be affected of the classes or class of shops to be affected.

Interpretation of "shopkeepers" for purposes of No. 2650 ss. 79, 84, 97, 100, &c.

9 (Act No. 3048). For the purposes of petitions under the Factories and Shops Acts by shopkeepers no person to whom any stall or standing in a market is let or demised or by whom such stall or standing is used shall by reason only thereof be deemed to be a shopkeeper unless such stall or standing is usually kept open for business on the days and during the hours when shops may be lawfully kept open.

Municipal clerk to certify.

80. It shall be the duty of the municipal clerk of each municipal district to which any petition relates on such petition being referred to him by the Minister to certify how many of the persons signing such petition are shopkeepers (exclusive of hawkers and pedlars) keeping shops within such municipal district or specified locality of the classes or class of shops to be affected by the regulations desired by such petition and also to state and certify the total number of the said shopkeepers keeping such classes or class of shops within such municipal district or specified locality.

References to "hours."
S. 4 (4) ibid.

81. In this Division and in Divisions two and three of this Part and in the Factories and Shops Act 1919 where any particular hour is specified such hour shall unless otherwise expressed refer to such hour after noon and where a shop is required to be closed from a specified hour it shall be kept closed for the remainder of the day.

8 (Act No. 3048). Notwithstanding anything in the Factories and Shops Acts any shopkeeper may keep his shop open one hour later than the hour fixed for closing by or under the said Acts on the Thursday immediately preceding Good Friday and on the last day on which the shop is open preceding Christmas Day in each year.

Permission to shopkeeper to keep shop open one hour later on certain days.

DIVISION 2.—HOURS OF CLOSING IN THE METROPOLITAN DISTRICT.*

82. For the purposes of this Act the municipal districts of Brighton Brunswick Camberwell Caulfield Coburg Collingwood Essendon Fitzroy Footscray Hawthorn Kew Malvern Melbourne Northcote Oakleigh Port

Metropolitan district.
S. 6 No. 3048.

* 1st January, 1920.

TABLE showing closing hours for all Shops situated within the Metropolitan District, as defined by section 82.

Class of Shop.	Hours of Closing.						Effect of Closing Shop for the whole of a Public Holiday which falls on any Tuesday, Wednesday, Thursday, Friday, or Saturday.
	Mon.	Tu.	Wed.	Th.	Fri.	Sat.	
	p.m.	p.m.	p.m.	p.m.	p.m.	p.m.	
1. Booksellers and Newsagents	Closing hours not fixed by law. The shopkeeper may therefore decide for himself when his shop shall close						No effect
2. Butchers	5	5	5	5		1	May remain open on preceding day till 8 p.m.
3. Confectionery and Pastry	Same as No. 1						No effect
4. Cooked Meat (other than tinned meat)†	8	8	8	8	10	11	No effect
5. Fish and oyster	Same as No. 1						No effect
6. Flower	Same as No. 1						No effect
7. Fruit and Vegetable	During May, June, July, August, and September† Other months						No effect
8. Hairdressers	8	8	8	8	9	1	No effect
9. Tobacco-nists	If Wednesday chosen for half-holiday	8	8	1	8	8	May remain open on preceding day till 9 p.m.
	If Saturday chosen for half-holiday	8	8	8	8	9	
10. All shops of any kind not mentioned above	6	6	6	6	9	1	May remain open on preceding day till 9 p.m.

† These hours were fixed by Regulation under section 84.

On the Thursday preceding Good Friday and on the last day on which the shop is open preceding Christmas Day a shopkeeper may keep his shop open one hour later than the hour fixed for closing.

Melbourne Prahran Preston Richmond South Melbourne St. Kilda and Williamstown and the Railway riding of the Shire of Braybrook and the Box Hill and Surrey Hills ridings of the Shire of Nunawading and the Shire of Heidelberg except the Greensborough riding shall form one district to be called the Metropolitan District.

GENERAL.

83. With the exception of shops for the sale of fresh uncooked meat hairdressers' shops **tobacconists' shops** and shops of the classes or kinds mentioned in the Fourth Schedule all shops situated within the Metropolitan District shall be closed on Monday Tuesday Wednesday and Thursday from the hour of six o'clock but may be kept open until **nine** o'clock in the evening on the day immediately preceding a public holiday when such shops are closed for the whole of such public holiday.

FOURTH SCHEDULE SHOPS.

84. (1) This section applies only to the Metropolitan District and to shops of the classes or kinds mentioned in the Fourth Schedule.

(2) The Governor in Council may make regulations to have effect in and throughout the whole of such Metropolitan District or in and throughout any one municipal district or any two or more contiguous municipal districts (as the case may be) within such Metropolitan District, requiring any class or kind of such shops to be closed during the whole of each year or any part of each year—

- (a) on all or any stated days in each week from the hours stated in such regulations;* or
- (b) on one stated day in each week from the hour of One o'clock; or
- (c) On one or more stated days in each week from any hours fixed by such regulations and permitting such closed shops to re-open on such stated day or days from such other hour or hours as may be fixed by such regulation.

* All cooked meat (other than tinned meat) shops in the Metropolitan District are required to be closed from the hour of 8 p.m. on Monday, Tuesday, Wednesday and Thursday; 10 p.m. on Friday, 11 p.m. on Saturday. (Regulation gazetted 25th August, 1915).

All fruit and vegetable shops in the Metropolitan District are required to be closed during the months of May, June, July, August and September, from the hour of 7 p.m. on Monday, Tuesday, Wednesday and Thursday. (Regulation gazetted 16th October, 1918.)

Hours for closing shops.

s. 4 (2) (b)
No. 348.

Fourth Schedule.

s. 4 (2) (a) *ibid.*

Confectionery and pastry shops eating houses fish and oyster shops **flower shops** fruit and vegetable shops bookseller and news agents' shops cooked meat shops.

s. 7 *ibid.*

Fourth Schedule.

(3) Such a regulation may be made as to shops of any class or kind so specified for any or all of the purposes aforesaid but shall in no case be made unless a petition† therefor has previously been addressed to the Governor in Council and forwarded to the Minister.

Preliminary
petition.

(4) In the case of a regulation being desired as to any particular class or kind of shops for the whole of the Metropolitan District such petition shall be signed by a majority of all the shopkeepers (exclusive of hawkers and pedlers) of the particular class or kind to be affected keeping shops within the Metropolitan District.

Regulation for
whole
Metropolitan
District.

(5) In the case of a regulation being so desired for one municipal district or for two or more contiguous municipal districts within the Metropolitan District such petition shall be signed by a majority of the shopkeepers (exclusive of hawkers and pedlers) of the particular class or kind to be affected keeping shops within such district or contiguous districts.†

Regulation for
one municipal
district or for
contiguous
districts within
Metropolitan
District.

(6) It shall be the duty of the municipal clerk of each municipal district to which any petition relates on such petition being referred to him to certify how many of the persons signing such petition are shopkeepers (exclusive of hawkers and pedlers) keeping shops within such municipal district of the class or kind of shops to be affected by the regulation desired by such petition and also to state and certify the total number of the said shopkeepers keeping such class or kind of shops within such municipal district.†

Municipal clerk
to certify.

(7) Notwithstanding any petition received by the Minister for the amendment or repeal of any regulation made by the Governor in Council under the provisions of this section, such regulation shall remain in force for not less than six months from and after the date of its publication in the *Government Gazette*.

Shortest
duration
of regulations.

85. No shopkeeper who keeps his shop closed for the whole of any public holiday occurring in any week shall be deemed to be guilty in respect to such week of a contravention of any provision of any regulation under this Division providing for the closing on one afternoon or from one o'clock on one afternoon in each week of all shops of any particular class or kind mentioned in the Fourth Schedule.

Effect of closing
for public
holiday.

Fourth
Schedule.

† See section 9 Act 3048 as to any stall or standing in a market—page 42.

BUTCHERS' SHOPS.

Butchers' shops. 86. All shops within the Metropolitan District for the sale of fresh uncooked meat shall be closed in every week—

On Monday Tuesday Wednesday and Thursday from the hour of five o'clock;

On Friday from the hour of eight o'clock;

On Saturday from the hour of one o'clock;

Public holiday. but may be kept open until eight o'clock in the evening or the day immediately preceding a public holiday when such shops are closed for the whole of such public holiday.

Hairdressers' Shops.

Hairdressers' shops in metropolitan district.

S. 4 No. 3048.

87. All hairdressers' shops within the Metropolitan District shall be closed* in every week—

On Monday Tuesday Wednesday and Thursday from the hour of eight o'clock;

On Friday from the hour of nine o'clock; and

On Saturday from the hour of one o'clock;

but may be kept open until nine o'clock in the evening on the day immediately preceding a public holiday when such shops are closed for the whole of such public holiday.

Tobacconists' Shops.

Tobacconists' shops.

S. 5 *ibid.*

5 (3048). (1) All tobacconists' shops situated within the Metropolitan District shall be closed in every week as follows, namely:—

On Monday Tuesday and Thursday from the hour of eight o'clock;

On Friday from the hour of eight o'clock except when such shops are to be closed at one o'clock on Saturday when they shall be closed from the hour of nine o'clock on Friday;

On Wednesday from the hour of one o'clock or eight o'clock whichever of these times is chosen by the shopkeeper; and

* *Semle*, a hairdresser shall not after the hour fixed for closing commence to shave or dress the hair of a customer.—*Powell v. Kierulf*, 24 V.L.R. 851.

On Saturday—

- (a) from the hour of one o'clock when the closing time on the preceding Wednesday was eight o'clock; or
- (b) from the hour of nine o'clock when the closing time on the preceding Wednesday was one o'clock;

but may be kept open until nine o'clock in the evening on the day immediately preceding a public holiday when such shops are closed for the whole of such public holiday.

(2) The choice of a keeper of a tobacconists' shop as to the closing time on Wednesday may be made in respect of any such shop or shops occupied by him by sending through the post by registered letter to the Chief Inspector a notice in the form prescribed.* Until he so makes such choice a tobacconist shall be deemed to have chosen one o'clock as the closing time for his shop on Wednesday.

Choice of
Wednesday or
Saturday
holiday by
shopkeeper.

(3) A tobacconist who has two or more different shops all of which are situated within one mile of each other in the metropolitan district shall close all such shops either at one o'clock on Wednesday or at one o'clock on Saturday and may make his choice accordingly.

Shopkeeper
having several
shops.

(4) When a tobacconist has made a choice as aforesaid he shall not make another choice until after the expiration of three months therefrom.

88. *Repealed by Section 4, Act No. 3048*

SMALL SHOPS.

89. The expression "small shops" means those shops which would except for the following provision of this Act be required to close at the times specified in section eighty-three or eighty-six and wherein only one assistant (whether paid or unpaid) is engaged or employed and the shopkeeper whereof and the assistant (if any) are registered as hereinafter provided.

Definition of
small shops.

90. Small shops and the keepers thereof and assistants therein shall be registered annually by the Chief Inspector.

Registration
annually.

* See p. 161 for the prescribed form.

Registration of
small shops.

91. (1) The registration of a shop as a small shop and of the keeper thereof and of any assistant therein may be allowed in cases of widows old people and in cases of great hardship and shall be at the absolute discretion of the Minister.

(2) No person shall be registered or employed as an assistant in a small shop unless such person is the husband wife child stepchild grandchild brother sister nephew niece grandparent or parent of the shopkeeper and is not employed in any other shop or in any factory.

(3) In relation to small shops the term "keeper" shall not include the manager of a shop.

Penalty.

92. Every keeper of a small shop who is assisted by or employs an unregistered assistant shall be guilty of an offence and shall be liable to a penalty of not more than Two pounds and on a second conviction shall be liable to a penalty of not more than Ten pounds and on a third conviction his registration may be suspended for a term of not more than two years.

s. 4 No. 3048.

93. Small shops shall in every week be closed—
on Monday Tuesday Wednesday and Thursday from the hour of eight o'clock;
on Friday from the hour of nine o'clock; and
on Saturday from the hour of one o'clock.

Application of
provisions to
small shops.

94. The provisions of this Act relating to small shops shall apply within the Metropolitan District only.

DIVISION 3.—HOURS OF CLOSING OUTSIDE THE METROPOLITAN DISTRICT.

Non-application
to Metropolitan
District.

95. The provisions contained in this Division shall have no force or effect within the Metropolitan District.

GENERAL.

Hours for
closing shops
outside
Metropolitan
District.

s. 4 (3) (a)
ibid.

96. All shops outside the Metropolitan District (other than shops for the sale of fresh uncooked meat hair-dressers' shops tobacconists' shops and shops of the classes or kinds mentioned in the Fourth Schedule) shall be closed on Monday Tuesday Wednesday and Thursday from the hour of seven o'clock but may be permitted to

be kept open later or be required to be closed earlier during such hours as shall be specified on Monday Tuesday Wednesday or Thursday under any by-law* made or to be made under the authority of this Division or any previous corresponding enactment and may be kept open until nine o'clock in the evening on the day immediately preceding a public holiday when such shops are closed for the whole of such public holiday. Where in any section in this Part there is a provision relating to the closing of shops on a day immediately preceding a public holiday such provisions shall be construed as applying to any of the shops referred to in such section which is closed for the whole of such public holiday.

S. 4 (3) (b)
No. 3048.
S. 2 No. 2875.
Ibid.

FOURTH SCHEDULE SHOPS.

97. Any municipal council may if it thinks fit at any time make alter and repeal by-laws in and for the municipality for all or any of the following purposes, namely:—†

Power to municipal council on petition to make by-laws fixing hours of closing of shops in Fourth Schedule.

For requiring shops of any class or kind mentioned in the Fourth Schedule to be closed during the whole of each year or any part of each year—

- (a) on all or any stated days in each week from the hours stated in such by-laws;
- (b) on one stated day in each week from the hour of one o'clock; or
- (c) on one or more stated days in each week from any hours fixed by such by-law and permitting such closed shops to re-open on such stated day or days from such other hour or hours as may be fixed by such by-law.

* The defendant, a hairdresser, was charged upon information with a breach of the *Factories and Shops Act 1890* for that not being licensed to keep open after 7 o'clock in the evening he did not close his shop from that hour. At the hearing before a court of petty sessions the prosecuting solicitor admitted the existence and operation in fact of a by-law allowing hairdressers to keep open until 8 p.m., but alleged that it was *ultra vires*. The by-law had not been quashed. The justices convicted the defendant for not having closed his shop at 7 o'clock.

Held, that the conviction was bad.—*Powell v. Kierulf*, 24 V.L.R., 851.

† The by-laws already made under the provisions of this section are too numerous to be given here.

The Governor in Council may make regulations for any of the purposes for which a municipal council is by the *Factories and Shops Acts* empowered to make by-laws. (Sections 101 and 102.)

Such a by-law may be made as to shops of any class or kind so mentioned for any or all of the purposes aforesaid, but shall in no case be made unless a petition certified to by the municipal clerk as being signed by a majority of the shopkeepers* (exclusive of hawkers and peddlers) within such municipal district keeping shops of the class or kind to be affected has been previously presented to the municipal council.†

BUTCHERS' SHOPS.

Butchers' shops
outside the
Metropolitan
District.

98. (1) All shops outside the Metropolitan District for the sale of fresh uncooked meat shall be closed in every week—

On Monday Tuesday Wednesday and Thursday
from the hour of seven o'clock;

s. 4 No. 3048:

On Friday from the hour of nine o'clock;

On Saturday from the hour of one o'clock,

ibid.

but may be kept open until nine o'clock in the evening on the day immediately preceding a public holiday when such shops are closed for the whole of such public holiday. Provided that in any municipal district or specified locality where regulations have been made exempting from the provisions of section seventy-seven or any previous corresponding enactment and fixing the hours of closing all shops or all shops of any class or kind, regulations may be similarly made exempting from the provisions of this sub-section shops situated in the same municipal district or specified locality for the sale of fresh uncooked meat and fixing their hours of closing on petition signed by a majority of keepers of

* See section 9 Act 3048 (at page 42) as to any stall or standing in a market.

† Under a former section it was decided that the certificate of a municipal clerk need not set out upon its face all facts prescribed by the Act as matters in respect of which it is to be given, but it is sufficient if in general words it follows the language of the section.

Such a certificate though good in form is not final and conclusive. The court may look at the facts upon which it is based in order to see whether it is wrong in substance. If such a certificate be wrong in substance the regulation grounded upon it will be set aside.—*Ellis v. Horsley*, 23 V.L.R., 609. Compare section 244 of this Act.

The presentation of a petition certified by the municipal clerk as signed by a majority of the shopkeepers substantially interested and affected thereby was held under a former section to be a condition precedent to the making of any by-law or regulation. *Ellis v. Horsley (supra)* distinguished.—*Ex parte Crawcour*, 26 V.L.R., 406.

such shops in such municipal district or specified locality and certified as required by section eighty.*

(2) Such shops may be permitted to be kept open later or be required to be closed earlier during such hours as shall be specified on any Monday Tuesday Wednesday Thursday or Friday under any by-law made or to be made under the authority of this Division or any previous corresponding enactment. S. 4 No. 3048.

HAIRDRESSERS' SHOPS and Tobacconists' Shops.

Ibid.

99. Hairdressers' shops and tobacconists' shops outside the Metropolitan District shall be closed in every week as follows, namely:—

Ibid.

Hairdressers' and tobacconists shops outside the Metropolitan District.

On Monday Tuesday and Thursday from the hour of seven o'clock;

On Friday from the hour of seven o'clock except when such shops are to be closed at one o'clock on Saturday when they shall be closed from the hour of ten o'clock on Friday;

On Wednesday from the hour of one o'clock or seven o'clock whichever of these times is chosen by the shopkeeper; and

On Saturday—

(a) from the hour of one o'clock when the closing time on the preceding Wednesday was seven o'clock; or

(b) from the hour of ten o'clock when the closing time on the preceding Wednesday was one o'clock,

but may be permitted to be kept open later or be required to be closed earlier during such hours as shall be specified on any Monday Tuesday or Thursday under any by-law made or to be made under the authority of this Division or any previous corresponding enactment and may be kept open until ten o'clock in the evening on the day immediately preceding a public holiday when such shops are closed for the whole of such public holiday.†

BY-LAWS.

100. Any municipal council may if it think fit in the cases and for the purposes set forth in sections ninety-six, ninety-eight and ninety-nine at any time make alter and repeal by-laws in and for the municipality.

Power to make by-laws.

* See section 9 Act 3048 (at page 42) as to any stall or standing in a market.

† See *Powell v. Kierulf*, cited in note to section 96.

Such a by-law may be made for any of the purposes aforesaid, but shall in no case be made unless a petition certified to by the municipal clerk as being signed by a majority of the shopkeepers† (exclusive of hawkers and pedlers) within such municipal district keeping shops of the class or kind to be affected has been previously presented to the municipal council.*

REGULATIONS.

Governor in Council may make regulations for closing of shops &c.

101. (1) The Governor in Council may make regulations to have effect within any specified municipal district, or in the case of a shire within any specified part of such district, for any of the purposes for which a municipal council is by this Act empowered to make by-laws.

Inconsistent by-laws of no effect.

(2) When the Governor in Council has for any municipal district or part thereof made any regulation under this section then any by-law previously or subsequently made by the council of such district which is inconsistent with such regulation shall be deemed to be of no force or effect so far as it relates to such district or part (as the case may be).

Power to fix hours of closing certain shops.

(3) Where by any by-laws shops of any particular class or kind have been permitted to keep open after the hours specified in this Division, a regulation made under this section may fix the hours for the closing of such class or kind of shops at the hours specified in this Division.

Petition.

(4) No such regulation shall be made in cases where by this Division it is required that a petition† shall have been previously presented to the making of such by-law, unless a like petition similarly signed and certified to by the municipal clerk has previously been addressed to the Governor in Council and forwarded to the Minister.

Certification of petition.

(5) The municipal clerk is hereby required, when any such petition is referred to him by the Minister, to certify whether or not such petition has been signed by a majority of shopkeepers (exclusive of hawkers and pedlers) keeping shops within the locality affected of the class or kind to be affected.

Shortest duration of regulations.

(6) Notwithstanding any petition received by the Minister for the amendment or repeal of any regulation made by the Governor in Council under the provisions of this section, such regulation shall remain in force for

* See *Ellis v. Horsley*, 23 V.L.R., 609, and *Ex parte Crawcour*, 26 V.L.R., 406 noted at section 97.

† See also section 9 Act 3048 at page 42.

not less than six months from and after the date of its publication in the *Government Gazette*.

GEELONG DISTRICT.

102. (1) For the purposes of this Act the City of Geelong the Boroughs of Geelong West and Newtown and Chilwell and the Moorpanyal riding of the Shire of Corio shall form one district to be called the Geelong District. Geelong District.

(2) The Governor in Council may make regulations to have effect in and throughout the whole of such Geelong District providing for any of the purposes for which a municipal council is by this Act empowered to make by-laws. Regulations for Geelong District.

(3) No such regulation shall be made unless a petition therefor has previously been addressed to the Governor in Council and forwarded to the Minister. Preliminary petition.

(4) Such petition shall be signed by a majority of all the shopkeepers (exclusive of hawkers and pedlers) keeping shops within such district of the classes or class of shops to be affected.* Majority of shopkeepers to sign.

(5) It shall be the duty of the municipal clerk of each municipal district to which any petition relates on such petition being referred to him by the Minister to certify how many of the persons signing such petition are shopkeepers (exclusive of hawkers and pedlers) keeping shops within such municipal district of the classes or class of shops to be affected by the regulation desired by such petition and also to state and certify the total number of the said shopkeepers keeping such classes or class of shops within such municipal district. Municipal clerk to certify.

(6) Where the Governor in Council has for the Geelong District made any regulation under this section then any provisions to the contrary of any by-law previously or subsequently made by the council of any municipal district included in the Geelong District and any provisions to the contrary of any regulation previously made by the Governor in Council which are or is inconsistent with such regulation shall thereupon be deemed to be of no force or effect whatever. Where by-law is inconsistent with regulation of Governor in Council.

(7) Notwithstanding any petition received by the Minister for the amendment or repeal of any regulation made by the Governor in Council under the provisions of this section such regulation shall remain in force for not less than six months from and after the date of its publication in the *Government Gazette*. Shortest duration of regulations.

* See also section 9 Act No. 3048 at page 42.

OFFENCES AGAINST REGULATIONS AND BY-LAWS.

Penalty for breach of regulation or by-law.

103. Every person guilty of any offence against any regulation made pursuant to this Division or any previous corresponding enactment or against any by-law made by a municipal council in pursuance of this Division or any previous corresponding enactment shall notwithstanding any provision of any by-law be liable for the first offence to a penalty of not more than Two pounds and for every subsequent offence to a penalty of not less than One pound nor more than Ten pounds.

DIVISION 4.—GENERAL SHOP PROVISIONS.—SANITARY PROVISIONS.—HOURS OF WORK.—HALF-HOLIDAYS, REGISTRATION, ETC.

MISCELLANEOUS.

Penalty for employer detaining employé on half-holiday.

104. If any person is employed in any shop later than half-an-hour after the time of closing for a half-holiday, the employer shall be liable to a penalty of not more than Two pounds for each offence in respect of each person so employed.*

Provision as to closing shop selling goods of various kinds.

105. (1) If in any shop any trade or business is carried on or any goods are dealt in of such descriptions or kinds as would under the provisions of this Act or of any by-law or regulation made or for the time being in force hereunder necessitate such shop being closed during certain hours then such shop shall be closed for all purposes during such hours.†

Power to suspend as to any shop.

[(2) *The Minister may suspend† the provisions of sub-section (1) of this section in any shop to such extent and subject to such conditions as may appear requisite, and such suspension may be revoked by the Minister by a notification under his hand posted to the occupier of the shop affected thereby. No such suspension shall authorize the sale or offering for sale or exposure for sale of any goods the dealing in which would under the provisions of this Part necessitate the closing of such shop. Repealed by Section 10, Act 3048.*]

* Compare section 240.

† "A person who carries on in the same shop within the Metropolitan District two different kinds of business, one of which is within the Fourth Schedule and the other not, must close the whole of his shop on the weekly half-holiday.

In order to establish an offence under the section it is not necessary to prove that a sale of goods has taken place.

In support of a charge that a business was carried on at a shop on a specified day, evidence is admissible that sales were made there shortly before and after the day in question.—*Billingham v. Gaff*, 13 A.L.R. 474. See also (1907) V.L.R. 691, 29 A.L.T. 159.

10 (Act 3048). Sub-section (2) of section one hundred and five of the Principal Act is hereby repealed:

Repeal of No. 2650 s. 105.

Provided that such repeal shall not affect any suspension granted and in force at the date of the coming into operation of this Act and every such suspension shall unless sooner revoked continue in force until the thirty-first day of December One thousand nine hundred and twenty and no longer; and the said sub-section (2) shall continue to apply to such suspension until the said date as if this section had not passed.

No power to suspend provision as to closing shop selling goods of various kinds.

Saving as to existing suspensions.

106. (1) Every occupier of a shop shall cause to be provided suitable sitting accommodation for all persons employed in his shop in the proportion of one seat to every three persons employed; such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided.

Sitting accommodation to be provided in shops for employes.

(2) The occupier of any shop shall allow every person employed therein to make use of such sitting accommodation at all reasonable times during the day.*

107. (1) The Minister may, after due inquiry and subject to such conditions as may appear requisite suspend the provisions of this Act which relate to shops in any building or place in which a public exhibition of works of industry and art or bazaar or fair for benevolent or charitable purposes is being held, provided that such exhibition be not carried on for the benefit or gain of any private persons.

Power to suspend shop provisions at any public exhibition, bazaar, &c., for charitable purposes only.

(2) In the event of any breach of the conditions of such suspension the same may at any time be revoked by the Minister.

108. A shopkeeper shall not charge any manager or assistant who is required to reside on the premises in connexion with the shop in which the business of such shopkeeper is carried on a greater sum as rent for such premises than Ten shillings per week.

Limitation of amount of rent chargeable to resident manager or assistant of shopkeeper

109. Where any person carrying on the business of a hairdresser or barber lets any chair or part of his shop to any other person for the purposes of the business of a hairdresser or barber the person to whom the

Person to whom a chair, &c., in barber's shop is let for purposes of the business to be deemed to be an employe.

* The sitting accommodation must be always available. It is not a compliance with the section if the seats provided, though of the requisite number, are available for the customers in the first instance.—*Trainor v. Younger*, 13 A.L.R. 50, 28 A.L.T. 171.

chair or part of the shop is let shall be deemed to be the employé of the person who lets the same and shall be paid as such.

Penalty for sale of new goods by auction after hours for closing shops.

110. Where any person in any building, room, or place in any municipal district and at any time when shops in such district are required by this Act to be closed sells by auction any new goods such as are usually sold in any such shops, such person (notwithstanding that he is a licensed auctioneer) shall be guilty of an offence against this Act.

Sale of motor spirit after hour.

111. Notwithstanding anything in this or any other Act the sale from any shop after the hour when such shop should be closed of petrol benzine or other motor spirit to travellers for the purpose of enabling them to continue any journey shall not be regarded as an offence.

SANITARY PROVISIONS AND VENTILATION OF SHOPS AND BUILDINGS.

Conveniences for employés.

112. (1) The occupier of every shop office warehouse or building (other than a factory) in which persons are working or employed in any business whatever shall as may be prescribed construct privies and urinals for the use of such persons and where they are of different sexes separate privies for the use of each sex with approaches thereto properly separated for the sexes.

(2) The occupier of any building who fails to comply with the provisions of this section shall be liable to a penalty of not less than Two nor more than Twenty pounds.

Ingress egress &c. as to shops.

113. (1) Every shop shall be provided by the occupier thereof with the prescribed means of ingress and egress and with the prescribed gangways stairways and passages (which shall not be obstructed) and with the prescribed appliances for the prevention and extinction of fire.

(2) The occupier of a shop shall not permit or suffer the same or any part thereof to be at any time so overcrowded as to be dangerous or injurious to the persons of either employés or customers therein.

(3) Every person who contravenes any of the preceding provisions of this section or of any regulation made thereunder shall be guilty of an offence and shall be liable to a penalty of not more than Twenty-five pounds.

(4) The occupier of every warehouse and every shop shall provide such amount of ventilation as may be prescribed.* Ventilation of warehouses and shops.

LIMITATION OF HOURS OF WORK.

114. (1) Except as in this section and in section one hundred and eighteen otherwise provided no person other than a person employed solely as a carter or porter or night watchman shall work for hire or reward in any shop or at any work in connexion with a shop for a longer time (excluding meal times) than fifty-two hours in any one week, or for a longer time (excluding meal times) than nine hours in any one day, except on one day in each week when twelve hours' work may be done. In any week in which a public holiday occurs, such public holiday not being on a Saturday, twelve hours' work may be done on two days in such week if the shop is closed for such public holiday.† Hours of work of persons in shops limited.

(2) Any person may, if notice in writing has previously been sent to the chief inspector, be employed in any shop or at any work in connexion with a shop for any time not exceeding three hours in any one day beyond the ordinary working hours, provided that the total number of days in any one year on which in any shop or at any work in connexion with a shop any such person is so employed shall not exceed twenty-five. Hours may be extended if notice given.

Provided also that each shop assistant employed during such extended hours shall be paid not less than One shilling for tea money on each day overtime is worked, and shall be paid for such overtime at the rate of time and a half for every hour or fraction of an hour so worked, provided that no such payment for overtime shall be less than Sixpence per hour or fraction of an hour.‡ Tea money and overtime payments.

The onus of proof that the conditions of this proviso have been complied with shall in all cases be on the defendant.

* See page 131.

† A weekly half-holiday for persons employed in shops is provided for in section 117.

‡ Provision is made in this and other sections and the regulations for payment of overtime or tea money, or both, to certain classes of persons working in excess of the statutory or regulation number of hours per day or week, such as males under sixteen years of age and females in factories (section 37), employés in Fourth Schedule shops, and others (section 119), and carters (section 132).

Intervals for meals. (3) No person shall be employed in any shop more than five hours without an interval of at least half-an-hour for a meal.

Previous employment on same day. (4) No male under sixteen years of age or female who has been previously employed during the same day in a factory shall be employed during any day in any shop or at any work in connexion with a shop for a longer time than will when added to the time such person worked in the factory exceed eight hours in the whole.

Penalty. (5) The occupier of a shop in which any contravention of this section occurs shall be liable for the first offence to a penalty of not more than Five pounds and for every subsequent offence to a penalty of not less than Two or more than Twenty pounds.

How hours of work are to be reckoned. 115. Where any person is employed in any capacity in any shop during any day or week, then all the time during which such person is employed at any work whatsoever for the occupier of the shop during such day or week shall be deemed for the purposes of this Act to have been time worked in such shop.*

By-laws. 116. Any municipal council outside the Metropolitan District may if it thinks fit at any time make alter and repeal by-laws in and for the municipality for limiting the total number of hours persons may be employed during the week or during the day and night in shops other than Fourth Schedule shops allowed to remain open at night. Such limit shall not be less than eight hours in each full day and night.

HALF-HOLIDAYS IN SHOPS GENERALLY.

Weekly half-holiday. Fourth Schedule. 117. Every occupier of any shop wheresoever situated in Victoria whether in a shire or not other than a shop of one of the kinds mentioned in the next succeeding section shall cause and permit† each and every person employed in such shop (except persons employed principally as carters or porters) to have and take a half-holiday from the hour of one o'clock in the afternoon of some day in each week other than a Sunday.

* For similar provision as to factories see section 44.

† The word "permit" in this section means "give permission to," and it is the duty of the employer to do some act to determine the days on which his employés may have the half-holidays.—*Martin v. McCann*, 22 V.L.R. 553, 3 A.L.R. 59, 18 A.L.T. 226.

Employers must not only allow each employé to have a weekly half-holiday, but also see that such half-holiday is actually taken.—*Euis v. Hartley*, 27 V.L.R. 31, 7 A.L.R. 125, 23 A.L.T. 2.

See section 104 as to penalty.

HOURS OF WORK AND HALF-HOLIDAYS IN FOURTH
SCHEDULE SHOPS, HOTELS, CLUBS, ETC.

118. Except as hereinafter provided no female shall be employed for more than fifty-six hours and no male for more than fifty-eight hours excluding meal times in any one week—

Hours of
employment in
certain shops,
&c.

(a) in any—

coffee palace,

confectionery and pastry shop,

eating-house,

fish or oyster shop,

flower shop,

fruit and vegetable shop,

bookseller's and news agent's shop,

cooked meat (other than tinned meat) shop,

hotel,

premises for which an Australian wine licence

or a billiard table licence is in force,

premises which are occupied as a club.

(All of which are for the purposes of this and the three next succeeding sections hereinafter referred to as "shops"); or

(b) in the trade or business of a caterer.

S. 11 (1)
No. 3048.

119. Any person employed in any such shop or trade or business may with the written consent of the chief inspector be employed overtime for any time not exceeding ten hours in any one week:

Overtime.

Provided that—

(a) the number of weeks in any year in which any person is so employed overtime shall not exceed six;

(b) an overtime rate of time and a half shall be paid;

(c) Sixpence shall be paid for tea-money on each day overtime is worked.*

120. In cases where any of such shops are usually kept open or such trade or business is usually carried on, on all the seven days of the week, the person having the management thereof shall cause and permit each person employed therein to have and take in each week

Whole holiday
in certain shops
to be given
in each week.

* Payment of overtime and tea money is also provided for in other cases, e.g., males under sixteen years of age and females in factories (section 37), shops generally (section 114), and carters (section 132).

a whole holiday of twenty-four hours commencing at the usual hour of beginning work on such day in each week as the manager in the case of each such person thinks fit.

Exceptions.

Provided that between the first day of December in each year and the last day of February next following in all parts of Victoria situate more than ten miles from the Metropolitan District a half-holiday only as provided in the next succeeding section need be given.

Half-holiday
in certain shops.

s. 11 (3)
No. 3048.

121. In all other cases included in section one hundred and eighteen and not provided for in section one hundred and twenty the person having the management of the shop or trade or business shall cause and permit each such person to take a half-holiday from the hour of two o'clock in the afternoon of Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday in each week.

INSPECTION OF SHOPS.

Powers of
inspectors.

122. Every inspector shall* for the purposes of the execution of this Act have power to do all or any of the following things, namely:—

(a) to enter for the purposes of this Act at all reasonable times any shop and to examine either alone or in the presence of the occupier any employé with respect to such matters under this Act as relate to shops;

(b) to enter inspect and examine at all reasonable times by day or night any place whatsoever when he has reasonable cause to believe that any person is employed therein at work for which a Wages Board has fixed prices or rates;

(c) to require the production of all pay-sheets or books wherein an account is kept of the actual wages (whether by piece-work or not) paid to any individual employé in any place to which the Determination of any Wages Board applies and to take copies or extracts from the same;

(d) to require the production of the certificate of registration books registers certificates notices lists and documents kept in pursuance of this Act or of any regulations made hereunder and to inspect examine and copy the same:

s. 2 ibid.

ibid.

* For powers as to factories see sections 18-20.

- (e) to examine either alone or in the presence of the employer his agent or servant with respect to matters under this Act every person whom the inspector has reasonable cause to believe to be or to have been within the preceding two months employed at work for which a Wages Board* has fixed prices or rates and to require such person to be so examined and to sign a statutory declaration as to the truth of any statements made by him as to the matters respecting which he is so examined; and
- (f) to exercise such other powers as may be necessary for carrying this Act into effect.

S. 2 No. 3048.

123. (1) Every inspector when entering inspecting and examining any shop pursuant to any of the provisions of this Act may take with him into such shop any person who in the opinion of such inspector is qualified to act as an interpreter.

Inspector may be accompanied by an interpreter.

(2) Any inquiry or requisition to any occupier or his agent or employé or any person made on behalf of such inspector by the person so acting as interpreter shall for all purposes be deemed to have been actually made by the inspector, and the answer thereto when made by an occupier agent employé or person to the person acting as interpreter shall be deemed to have been actually made to the inspector.

Effect of inquiry, &c., by interpreter.

(3) Any person who obstructs any person so acting as an interpreter shall be deemed to have obstructed the inspector in the execution of his duties and shall be punishable accordingly.†

Obstruction of interpreter.

124. (1) Every person who—

- (a) wilfully delays an inspector in the exercise of any power under this Act, or
- (b) fails to comply with a requisition of an inspector made under any such power as aforesaid, or to produce any certificate of registration book register certificate notice list or document which he is required by or in pursuance of this Act to produce, or
- (c) conceals or prevents any person from appearing before or being examined by an inspector or attempts so to conceal or prevent a person,

Obstruction of inspector.

* The appointment of Wages Boards is dealt with in section 137 and several following sections.

† Penalty—Section 236.

shall be deemed to obstruct an inspector in the execution of his duties under this Act.*

Evidence.

(2) No person shall be required under this section or the two last preceding sections to answer any question or give any evidence tending to criminate himself.

REGISTRATION OF SHOPS.†

Notice of occupation of shops.

125. (1) Every person or body of persons—

going into or being in occupation of any shop shall within fourteen days of such going into or being in occupation; or

in occupation of any building or place which becomes for the first time or after a period of disuse again becomes a shop shall within fourteen days of such building or place becoming or again becoming a shop,

serve on the chief inspector at his office a written notice in the prescribed form.‡

Contents of notice.

(2) Such notice shall specify—

particulars of the names of such person or body of persons and a description of the shop; the place where such shop is situate; the classes or kinds to which such shop belongs; the name of the person or body of persons under which the business of the shop is carried on; and

such other particulars as are prescribed.

Registration.

(3) If it is shown that all the requirements of this Act have been fulfilled the chief inspector shall register such shop and issue a certificate of such registration on payment of the registration fees as hereinafter provided.

No fee for small shops.

(4) No fee shall be payable for shops registered under section ninety.

“Year” for which shop registered.

(5) The year for which shops are registered shall begin on the first day of March and end on the last day of February next following, and the annual fee shall be payable on the first day of March in each year; but when any shop is first occupied after the thirty-first day of August in any year the fees to be paid on registration for the current year shall be one-half of the annual fees.

* Penalty—Section 236.

† A “Shop” is—

(1) Any place, stall, tent, vehicle or pack in which goods are offered or exposed for sale by retail.

(2) Any one of the following places :—
Hairdressers' or barbers' rooms.
Boot repairers' shops.
Dyers and clothes cleaners' rooms.

In order to register a shop or renew the registration annually, application should be made to the Department of Labour or the nearest police station for the necessary form. This should be carefully completed and posted together with the registration fee to the Secretary for Labour, Spring-street, Melbourne. The scale of fees will be found on page 63.

‡ Regulation, page 136.

(6) Any person or body of persons in occupation of any shop not registered as required by this Act shall be liable to a penalty of not more than Ten pounds. Penalty for non-registration.

(7) The following shall be the scale of fees:— Scale of fees.

Every shop in which more than sixty persons are employed Three pounds and three shillings per annum.

Every shop in which more than thirty and not more than sixty persons are employed Two pounds and two shillings per annum.

Every shop in which more than ten and not more than thirty persons are employed One pound and one shilling per annum.

Every shop in which more than six and not more than ten persons are employed Ten shillings per annum.

Every other shop Two shillings and sixpence per annum.

(8) Nothing in this section shall apply to hawkers or pedlars. Hawkers and pedlars exempted.

23 (Act No. 3048). Notwithstanding anything contained in the Factories and Shops Acts no fees shall be payable in respect of any dairy which holds an annual licence as a dairy under the "Dairy Supervision Act 1915." Exemption of certain licensed dairies from fees. No. 2639.

RECORD OF EMPLOYEES, ETC., TO BE KEPT IN SHOPS, ETC.

126. (1) Every occupier of a shop and every employer of any person engaged in any process trade business or occupation which is or may become subject to the provisions of a Wages Board shall make a true record in such form and giving such particulars as may be prescribed as to the names work and wages of the persons employed by him and the name and age of every such person who is under twenty-one years of age, and such record shall be produced for inspection whenever demanded by the inspector and shall be forwarded annually to the chief inspector at such time as may be prescribed or whenever demanded for the purpose of preparing statistics for the information of either House of Parliament in connexion with the appointment of a Wages Board. Record of employes to be kept. S. 2 No. 3048.

Power to obtain records. ibid.

(2) There shall be kept printed painted or affixed in legible Roman characters in some conspicuous place at or near the entrance of each and every shop, and in such Information to be posted in shop.

other parts as an inspector from time to time directs, and in such a position as to be easily read by the persons employed in such shop a notice containing—

(a) the name and address of the inspector for the district;

(b) true copies or abstracts of such parts of this Act and the regulations as may be prescribed, or as may be directed by the Minister.

Name of occupier to be posted outside shop.

(3) There shall also be kept printed painted or affixed in legible Roman characters, in such place as an inspector may direct or approve, near to the outside of the principal outer door of every shop the name of the occupier thereof, or if such occupier is a company the registered name of such company, or if such occupier is a firm of persons the firm name of such firm.

Penalty.

(4) Any person contravening any of the provisions of this section shall be liable to a penalty of not more than Twenty shillings for every day during which any of the said provisions are not complied with.

PART VI.—CARTING AND DELIVERY.

Restrictions of hours of carting and delivery of goods, &c.

127. (1) (a) No person shall cart or deliver or permit any other person in his employment to cart or deliver any goods wares merchandise or materials whatsoever before half-past seven o'clock in the morning nor after half-past seven o'clock in the evening on any Monday, Tuesday, Wednesday, or Thursday nor before half-past seven o'clock in the morning nor after nine o'clock in the evening on any Friday nor before half-past seven o'clock in the morning nor after half-past one o'clock in the afternoon on any Saturday.*

Exemptions from restrictions of hours of carting and delivering of goods.

(b) The restrictions contained in this sub-section shall not apply to—

Cab drivers;

Persons driving tramway cars or motor omnibuses for conveying passengers;

Persons carting or delivering perishable articles of human food;

Persons delivering parcels of laundry-work;

Persons carting flowers to market;

* Carters and carting are regulated—speaking broadly—in three ways:—

(1) As to the time of day during which carting may be carried on.—
By this Section.

(2) As to the number of hours a carter may work in one week and as to his weekly half-holiday. By Regulations. See page 154.

(3) As to wages, overtime rates, and general conditions of work.—
By the Determination of the Carters Wages Board.

See section 5 *ante* for the area to which this section applies and section 241 for penalty.

Persons carting newspapers;

Persons carting materials for the repair of tramways;

Persons carting materials for repairing purposes in case of a breakdown in connexion with waterworks sewerage works electric light works gasworks or any other public utility or of any plant in a factory which would otherwise have to be closed either forthwith or during the next working day for repairs;

Persons carting bones and meat refuse from butchers' shops;

Persons removing dead animals; or

(From the first day of November in any year to the fifteenth day of April next following) persons delivering aerated waters cordials or ice.

(2) On the evening immediately preceding a public holiday cartage or delivery may be continued until ten o'clock.

(3) Any person may if permitted in writing* by the chief inspector be employed in such carting or delivery either before or after the hours mentioned in this section provided that such person is paid at the rate of Two shillings for each hour for such carting or delivery.†

Permission to do carting after hours.

128. Nothing in this Act shall be taken to prevent any person who has carted any goods wares merchandise or materials whatsoever from outside completing his journey in any city or town or in any borough or part of a shire to which this part of this Act has been extended after the hours stated in the last preceding section to the extent only of taking the horse or other animal cart and goods into a yard but such goods shall not be unloaded until the next day.‡

Country carters arriving late in town.

* Full reasons should be given in support of the application for these permits, as they are granted very sparingly. They are not granted for carting in the ordinary course of business, but only in exceptional cases of great urgency, such as considerations of public safety, the late arrival of steamers, and so on. Care should always be taken to supply the full name of the driver, as the permit is granted to him. The carter should have the permit in his possession, as its production may be demanded by an inspector of factories or a constable of police.

† Compare section 132 *post* as to employment beyond the hours allowed by regulations. Such regulations will be found at p. 154.

‡ "If the carting has commenced outside a city town . . . , that is, roughly speaking, if it has commenced from a place where the limitation of hours is not as a rule in force, the carting may be continued so far as to reach the shelter of a yard in a city town . . . , but no unloading must take place till the next day. The provision is apparently primarily intended for country districts and not for two adjacent cities in the metropolitan area."—Mr. Justice Isaacs in *Pemberton v. Banfield*, 18 A.L.R. 489.

Limitation of
hours of carriers
and carters.

129. The Governor in Council may make regulations* to have effect within the Metropolitan District and all cities and towns—

(a) limiting the total number of hours in the week during which any person may be employed for wages as a carrier or carter in carrying or delivering any goods wares merchandise or materials whatsoever or in assisting any such carrier or carter; and

Weekly
half-holiday for
carters.

(b) providing that every person (with such exceptions as may be stated in any such regulation) so employed shall during such hours as may be specified in the regulation have a half-holiday† on Saturday in each week in the Metropolitan District or on the day on which the usual half-holiday is observed in any city or town outside the Metropolitan District. Any such regulations may also specify the hours during which any person so employed who is so excepted shall have a half-holiday on some day in each week other than a Sunday. This paragraph shall not apply to any person employed in delivering bread.

Where any person is employed as a carrier or carter or in assisting a carrier or carter during any day or week then all the time such person is employed at any work whatsoever by his employer shall be deemed for the purposes of this section to be time worked as a carrier or carter or in assisting such carrier or carter (as the case may be).

Time-book for
carters or
stablemen.

S. 2 No. 3048.

130. Any person employing a carter or stableman for the purposes of any trade or business subject to a Determination of a Wages Board shall keep or cause to be kept a time-book in which such carter's or stableman's hours of commencing and ending work shall be entered from day to day by every person so employed; and such time-book shall be produced for inspection whenever demanded by an inspector.

Where the number of carters or stablemen so employed exceeds six, cards containing the same particulars as the time-book may be kept. It shall be the

* The regulations will be found at p. 154.

† The employer under a regulation following the words of this section is bound to see that the carter has a half-holiday.—*Dangerfield v. McDonald and Co.*, 1914 V.L.R. 357.

duty of the employer to cause the particulars on the cards to be transcribed into a time-book and to preserve the cards for the purposes of verification.

Every such book or card shall be in the form prescribed.

131. No shopkeeper shall require or permit any improver employed in the business carried on by such shopkeeper to cart or deliver goods for a longer time than twenty-six hours out of the total number of working hours in any week.

Hours during which improvers in shops may be employed in carting &c.

132. Where in pursuance of regulations any carter is with the written permission of the chief inspector employed for any time beyond the hours named in such regulations,* each carter who works such overtime shall be paid not less than sixpence for tea money on each day overtime is worked and shall be paid for such overtime at the rate of time and a half for every hour or fraction of an hour so worked, provided that no such payment for overtime shall be less than sixpence per hour or fraction of an hour. The onus of proof that the conditions of this section have been complied with shall in all cases be on the defendant.

Payment for overtime to carters.

PART VII.—WAGES BOARDS.

DIVISION I.—APPOINTMENT OF BOARDS.

133. (1) Every Wages Board purporting to have been appointed prior to the commencement of this Act shall be deemed to have been validly appointed.

Existing Board confirmed.

S. 2 No. 3048.

(2) Where a resolution is or has been passed by both Houses of Parliament declaring that it is expedient to appoint any Wages Board to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in any trade or any group of trades specified in the resolution or where any Wages Board has prior to the commencement of this Act been appointed for any process trade business

Power to appoint Wages Board for any process, trade, business, or occupation.

Ibid.

Ibid.

* Such regulations have been made under the powers conferred by section 129. This permission is entirely distinct from the permit to work outside the daily statutory hours referred to in section 127 *ante*, and in some cases it would be necessary to obtain a "permit" under the latter section and "permission" under section 132. But in any case the employé must receive a half-holiday in every week, as no authority exists for granting a permit to deprive him of that privilege. The permission granted under section 132, unlike that under section 127, is granted to the employer, and no particular employé is named in it.

Provision has also been made as to payment of overtime and tea money in other cases. *e.g.*, males under sixteen years of age and females in factories (section 37), shops generally (section 114), Fourth Schedule shop employés and others (section 119).

or occupation or any group thereof the Governor in Council may if he thinks fit from time to time—

S. 2 No. 3048.

(a) appoint one or more **Wages** Boards for any one of such trades or for any branch or branches thereof or for any group or groups of trades; and

Ibid.

(b) direct that any **Wages** Board may in any regulation determination order instrument or legal proceeding be described for all purposes by some short title.

Ibid.

(c) define the area or locality (including the whole or any part or parts of Victoria)* within which the Determination of each of such **Wages** Boards shall be operative; and extend or re-define any such area or locality; and

Ibid.

(d) as between any two or more **Wages** Boards, adjust the powers which such Boards or any of them may lawfully exercise, and for that purpose deprive any **Wages** Board of any of its powers and confer them upon any other **Wages** Board.

Ibid.

(3) When any **Wages** Board is deprived of any of its powers pursuant to this section any Determination thereof or of the Court of Industrial Appeals made before such deprivation under any power of which the **Wages** Board is deprived shall continue in operation until superseded by a Determination of the **Wages** Board upon which such power is conferred, and upon such Determination being made shall cease to have effect.

Ibid.

(4) Where under this section the area or locality within which the Determination of any **Wages** Board is to be operative is extended so as to include any part or parts of Victoria outside the Metropolitan District or outside any city town or borough the Governor in Council if in any case he thinks it necessary may appoint a new **Wages** Board to take the place of the **Wages** Board the operation of whose Determination is so extended.

Ibid.

Ibid.

Ibid.

(5) Where any new **Wages** Board is so appointed any Determination of the Board whose place it takes or of the Court of Industrial Appeals theretofore made shall within the area or locality for which the Determination was made continue in operation until superseded by a

* Compare limitation as to certain occupations in section 9.

Determination of the new **Wages Board** and upon such Determination being made shall cease to have effect. **S. 2 No. 3048.**

(6) Each **Wages Board** shall consist of not less than four nor more than ten members and a chairman.

134. *In this Part and in Parts VIII. and IX. and in or in connexion with the Determination of any **Wages Board** or of the Court of Industrial Appeals "trade" includes "process" or "trade" or "business" or "occupation" or all or some of them as the case may require.* **Definition of "trade."**
S. 2 No. 2875.
S. 2 No. 3048.

135. (1) The Governor in Council may by an order published in the *Government Gazette* extend the powers under this Act of any **Wages Board** so that such Board may fix the lowest prices or rates for any trade or part of any such trade which in the opinion of the Governor in Council is of the same or similar class or character as that for which such Board was appointed, and such Board shall as regards the trade mentioned in the extending Order in Council have all the powers conferred on a **Wages Board** by this Act. **Power to extend scope of Wages Board.**
Ibid.

(2) A copy of the *Government Gazette* containing an order so extending the powers of a **Wages Board** shall be conclusive evidence of the making of such order and such order shall not be liable to be challenged or disputed in any Court whatever. **Evidence.**
Ibid.

136: (1) One-half of the members of a **Wages Board** shall be appointed as representatives of employers and one-half as representatives of employes.* **Constitution of Board.**
Ibid.

(2) The representatives of the employers shall be *bonâ fide* and actual employers in the trade concerned, or shall have been so for six months during the three years immediately preceding their appointment and the representatives of the employes shall be actual and *bonâ fide* employes in such trade or shall have been so for six months during the three years immediately preceding their appointment.

(3) All the representatives of employers and employes respectively nominated for any **Wages Board** shall reside in the area or locality to which the Determination of the **Wages Board** is to be applied; and if any such representative ceases to reside as aforesaid he shall thereupon cease to be qualified as and shall cease to be a member of the Board. **Members of Board to reside in locality.**
Ibid.

* On the **Wages Board** for Men's and Boys' clothing, the employers' representatives must consist of three representatives of makers of ready-made clothing, and two of makers of order clothing.—(See section 162.)

Representative of places outside the Metropolitan District.

(4) In any case where one-fifth of the employers or employes in any trade carry on or are engaged in such trade outside the Metropolitan District* as defined in this Act one at least of the persons so nominated as representatives of employers and one at least of the persons so nominated as representatives of employes shall be a person who resides and who carries on or is engaged in or has carried on or been engaged in (as the case may be) such trade outside the said Metropolitan District.

Appointment of members of Wages Boards if not sufficient qualified persons willing to act.

S. 2 No. 304S.

(5) In any case where after the lapse of three months from the date of the Order in Council for the appointment of any Wages Board the Minister is satisfied that a sufficient number of qualified employers or employes cannot be found to act as members of the Board the Governor in Council on the advice of the Minister may appoint any persons who have been engaged in the trade concerned to be representatives of the employers or the employes on such Board.

Term of office of member or chairman of Wages Board.

Ibid.

(6) (a) Appointments as members of any Wages Board shall be for three years only, but any member of a Wages Board may on the expiration of his term of office be re-appointed thereto;

Ibid.

(b) The chairman of any Wages Board shall be deemed and taken to be a member thereof; and

Removal of members.

(c) The Governor in Council may at any time remove any member of a Wages Board.

Provision for appointment after nomination of representative members of Wages Board without previous election.

Ibid.

137. (1) Before appointing the members of any Wages Board the Minister may by notice published in the *Government Gazette* nominate persons as representatives of employers and representatives of employes to be appointed as members of such Wages Board.†

Objections to nominated members.

Ibid.

(2) Unless within twenty-one days after the date when such nominations are so published at least one-fifth of the employers or at least one-fifth of the adult employes respectively engaged in the trade subject to such Wages Board give notice in writing to the Minister that they object to the appointment of the persons nominated as their representatives (as the case may

Appointments.

Ibid.

* The Metropolitan District is defined in section 82.

† Although the Minister has power to nominate whomsoever he pleases within the limitations of section 136, his invariable practice is to consult the parties interested. It is open for any person or association to forward the names of persons suitable for nomination. If such names exceed the number to be appointed, the Minister makes a selection, and nominates those selected by publishing their names in the *Government Gazette*.

be) then such persons so nominated may be appointed members of the **Wages Board**.

S. 2 No. 3048.

(3) For the purpose of furnishing the information necessary for preparing rolls of electors (none of whom shall be under the age of eighteen years) for **Wages Boards** in any trade all employers shall send to the chief inspector their names and addresses and also the names and addresses of all employés not under eighteen years of age, in the form or to the effect of the **Fifth Schedule**, and the chief inspector shall compile voters' rolls therefrom and each employer and each employé shall have one vote.

Rolls of electors.

Ibid.

Fifth Schedule.

Any employer failing so to forward his name and address shall not be entitled to vote for representatives of employers on the **Wages Board** to be elected.

Ibid.

Every employé not under eighteen years of age who produces evidence to the satisfaction of the chief inspector that his ordinary occupation when at work is employment in any trade in regard to which the lowest prices or rates of payment are to be determined by any **Wages Board** shall notwithstanding that his name and address have not been forwarded by his employer be enrolled as an elector of representatives of employés on such **Wages Board**.

Ibid.

(4) The Minister shall decide whether persons nominated as representatives have been objected to by at least one-fifth of employers or adult employés (as the case may be) and for that purpose he shall accept the records given by the chief inspector in his latest annual report.

Decision as to objectors.

Provided that in any case where no records are given in the latest annual report of the chief inspector of factories with respect to any persons likely to be affected by the Determination of any such **Wages Board** the Minister if he is satisfied that there is substantial objection to the persons nominated by him as representatives of employers or employés on such **Wages Board** and notwithstanding that an objection signed by one-fifth of the employers or adult employés respectively engaged in the trade subject to such **Wages Board** has not been lodged may decide that an election shall be held.

Ibid.

Ibid.

Ibid.

Provision for election if nominees objected to by one-fifth.

(5) If the Minister is satisfied that at least one-fifth of the employers or of the adult employés object within the time aforesaid to the persons nominated as their representatives or that otherwise there is substantial objection then such representatives of employers or such representatives of employés shall subject to the provisions of this Act be elected* in the manner prescribed by regulations made by the Governor in Council.†

Appointment after nominations.

138. If the number of persons nominated as representatives of employers or employés (as the case may be) does not exceed the number of persons to be elected the persons nominated shall be deemed and taken to have been elected and shall be appointed by the Governor in Council accordingly to be members of the Wages Board.

S. 2 No. 3048.

Governor in Council may appoint in certain cases.
Ibid.

139. In the event of any vacancy occurring from any cause whatsoever in any Wages Board the Governor in Council may without previous nomination or election appoint a person as representative of employers or employés as the case may require and the person so appointed shall be deemed and taken to have been elected by such employers or employés (as the case may be): and such person shall be so appointed for the unexpired portion of the term of office of the member who dies or resigns or is removed.‡

DIVISION 2.—APPOINTMENT OF CHAIRMAN.

Nominations and appointment of Chairman of Wages Board.
Ibid.

140. (1) The members of a Wages Board shall within fourteen days after their appointment nominate in writing some person (not being one of such members) to be Chairman of such Wages Board, and such person shall be appointed by the Governor in Council to such office.

(2) In the event of the Minister not receiving such nomination within fourteen days after the appointment of the said members then the Governor in Council may appoint the Chairman on the recommendation of the Minister.

* But the members of any Wages Board for the furniture trade shall not be elected. Section 161.

† The regulations will be found on page 142.

‡ It is the practice of the Minister to consult the interests of the persons concerned. It is well for parties interested to be ready with nominations as soon as a seat on the Board becomes vacant.

DIVISION 3.—POWERS AND FUNCTIONS OF BOARDS.

141. (1) Every Wages Board in accordance with the terms of its appointment—

Board to determine lowest rates of pay.

S. 2 No. 3048.

(a) shall determine the lowest prices or rates of payment payable to any person or persons or classes of persons employed in the trade specified in such appointment.* Such prices or rates of payment may be fixed at piece-work prices or at wages rates or both as the Wages Board thinks fit;†§

Ibid.

(b) shall determine the maximum number of hours per week for which such lowest wages rates shall be payable according to the nature or conditions of the work; and the wages rates payable for any shorter time worked shall not be less than a *pro ratâ* amount of such wages rates and in the case of casual labour not less than such a rate as may be fixed for casual labour.

Board to fix number of hours in week's work.

* A Board may fix rates for repairing articles.—Section 152 *post*. For additional powers as to apprentices and improvers, see section 182 *post*.

† As to persons under 21 years of age, other than apprentices or improvers, see section 154 *post*.

§ It is the duty of Wages Boards, in fixing a minimum wage, and of the Court of Industrial Appeals in reviewing their decisions, not to fix the very lowest amount reasonably consistent with existence, but to take the current wage and ascertain what evil exists under that wage, considering the various surrounding circumstances and then to fix a fair amount.

The circumstances to be taken into consideration in fixing a minimum wage must be of a permanent character. The current wage will not be altered for some mere passing temporary or fluctuating cause, such as the operation on the cost of living of a proposed tariff which is being considered by the Legislature at the time. No change should be made in the determination of a Board or of the court unless on some ground which may reasonably be considered as permanent, or at least likely to last for some considerable time.

Wages should not be increased in a particular trade where they compare favorably with the wages paid in all the other trades in the State, and with those paid in the same trade in other States.

The court will not make alterations of any sort in industrial conditions without substantial proof of the existence of some evil, and changes will not be made out of mere benevolence or upon conjecture founded mainly on hearsay and rumour.

Observations as to raising wages on account of a general increased cost of living.

Observations as to the evidence to be given on the hearing of industrial appeals.—*In re The Bread Board*, 13 A.L.R., 589.

Observations as to the fixing of a minimum wage having regard to the skill or want of skill required in the work performed, to whether the work is heavy or light, healthy or unhealthy, regular or intermittent, the necessity for special clothing while the workmen are engaged in it, and the wages payable in other trades.—*In re The Ice Board*, 16 A.L.R., 46.

Difference of the sex of employes is generally to be considered in fixing their wages under the Factories and Shops Act.

Under existing legislation and in existing circumstances the court declined to fix equal rates of pay disregarding sex. It is the duty of Wages Boards and of the court to inquire into the existing state of things in relation to the wages paid in any given trade, and to correct anything wrong or anomalous, on practical grounds, and not with a view to any theoretical or benevolent allotment of remuneration.

—*In re The Commercial Clerks Board*, 19 A.L.R., 142.

Matters to be considered.
S. 2 No. 3048.

In fixing such lowest prices or rates the **Wages Board** shall take into consideration the following matters and may (if it thinks fit) fix different prices or rates accordingly—

- (i) the nature kind and class of the work;
- (ii) the mode and manner in which the work is to be done;
- (iii) the age and the sex of the workers;
- (iv) the place or locality where the work is to be done;
- (v) the hour of the day or night when the work is to be done;
- (vi) whether more than six consecutive days' work is to be done;
- (vii) whether the work is casual as defined by the Board;
- (viii) any recognised usage or custom in the manner of carrying out the work; and
- (ix) any matter whatsoever which may from time to time be prescribed;

Apprenticeship indenture.

(c) may prescribe the form of apprenticeship indenture to be used;*

Board may vary overtime or hours fixed by the Act or regulations.
Ibid.

(d) when in this Act or any regulations thereunder the number of the hours of work per week or the overtime rates of pay are fixed for any class or classes of workers, a **Wages Board** when exercising in respect of such class or classes of workers any of the powers conferred by this section instead of fixing the said number of working hours per week or the said overtime rate may fix a different number of working hours or overtime rate (as the case may be).

Wages Boards to fix overtime rates.
Ibid.

(2) Every **Wages Board** shall fix higher wages rates to be paid for overtime; and for that purpose it shall exercise the powers set out in any one but not more than one of the paragraphs (a) (b) (c) or (d) of this subsection:—

Weekly overtime rates.

(a) It may fix an overtime rate for any hour or fraction of an hour worked in any week in excess of the number of hours determined for a week's work; or

* An example of a simple form of indenture, which is applicable to all trades, and has been found to work advantageously to both employer and employé will be found at p. 125.

- (b) It may fix the hour of beginning and the hour of ending work on each day; and in that case shall—

Overtime rates where daily hours of beginning or ending work are fixed.

Fix higher wages rates to be paid for any hour or fraction of an hour worked in any week—

- (i) outside the hours so fixed;
 (ii) within the hours so fixed in excess of the number of hours determined for a week's work;
 or

- (c) It may fix the hour of beginning and the hour of ending each shift; and in that case shall—

Overtime rates where shifts are fixed.

Fix the rate to be paid for work done on each shift; and

Fix a higher rate to be paid for each hour or fraction of an hour worked by any employé before or after his shift; or

- (d) It may fix a higher rate to be paid for any hour or fraction of an hour worked on any day in a factory before or after the ordinary working hours of the factory.

Overtime rates for work outside ordinary hours.

12. (Act No. 3048). It is hereby declared that any Wages Board heretofore or hereafter appointed with regard to the making of bread may (without limiting the generality of its powers under the Factories and Shops Acts) fix the lowest prices or rates to be paid to employes in the trade varying according to whether the work performed is done during or before or after any specified hours of the day or night.

Power of Wages Boards as to bread to vary rates &c. payable to employes according to time during day or night when work done.

(3) In addition to the powers conferred by this section every Wages Board may exercise either or both of the following powers namely:—

Special rates for Sundays and holidays.

S. 2 No. 3048.

- (a) It may fix special rates for work to be done on a Sunday or public holiday;* or

- (b) It may fix special rates to be paid to any employé who works away from his employer's place of business for time occupied in travelling between the employer's place of business and work or between the employé's residence and work.

For time occupied in travelling to and from work.

* The only days which a Wages Board has power to name as public holidays are:—1st January (New Year's Day), 26th January (Foundation Day), Good Friday, Easter Saturday, Monday, and Tuesday, 21st April (Eight Hours Day), 3rd June (King's Birthday), first Thursday in September (Royal Agricultural Show Day), in localities named in the Royal Agricultural Show Act, 25th December (Christmas Day), and 26th December (Boxing Day).

s. 2 No. 3048.

(4)* “Casual work” or “casual labour” shall mean work or labour during any week for not more than one-half the maximum number of hours fixed by the Wages Board in respect of any particular trade and the Determination of any Wages Board with respect to casual work shall always be subject to this provision.

Piece-work price when fixed by Wages Board to be based on wages rate.
Ibid.

142. Where pursuant to this Act by any Determination of a Wages Board both a piece-work price and a wages rate are fixed for any work, the piece-work price shall be based on the wages rate; but no Determination shall be liable to be questioned or challenged on the ground that any piece-work price is a greater or less amount than such price would be if based upon the wages rate.

Outside work to be piece-work price only.

143. For wholly or partly preparing or manufacturing outside a factory articles of clothing or wearing apparel or boots or shoes a piece-work price only shall be fixed, and the Board shall on request of any occupier of a factory or shop or place fix a wages rate for any work done by persons operating at a machine used in such factory or shop or place.

Piece-work price may be fixed by manufacturer in certain cases.
Ibid.

144. (1) Any Wages Board instead of specifying the lowest piece-work prices which may be paid for wholly or partly preparing or manufacturing any articles may determine that piece-work prices based on wages rates fixed by such Wages Board may be fixed and paid therefor subject to and as provided in the next succeeding sub-section.

Piece-work prices to be based on earnings of average worker.
Ibid.

(2) Any employer† who pursuant to such Determination fixes and pays piece-work prices shall base such piece-work prices on the earnings of an average worker working under like conditions to those for which the piece-work prices are fixed and who is paid by time at the wages rates fixed by such Wages Board. Every such employer shall if required by the chief inspector so to do forward a statement of such prices to the chief inspector.

* A permanent employé who works continuously for one-half or less than one-half week's work is a casual within the meaning of this section.—*Hall v. The Centreway Cafe*. 22 A.L.R. 323.

† “Employer” means a person who, in regard to any person for whom piece-work prices are fixed, stands in the relation of employer to an operative, and the sub-section does not apply to the case of a contract between two independent persons not standing in that relation to each other.

Held, therefore, that a merchant who contracted with the registered occupier of a factory for the manufacture by the latter of articles of clothing out of material supplied by the merchant, at a certain price per dozen, could not be convicted of an offence under this or the next sub-section.—*Beath, Schiess and Co. v. Martin*. 2 C.L.R., 716.

(3) Any person who having fixed a piece-work price as in this section provided either directly or indirectly or by any pretence or device pays or offers or permits any person to offer or attempts to pay any person a piece-work price lower than the price so fixed by such first-mentioned person or who refuses or neglects to forward a statement of such prices when required to do so by the chief inspector shall be deemed to be guilty of a contravention of the provisions of this Part.*

When piece-work price fixed, offering lower price an offence.

(4) In proceedings against any person for a contravention of the provisions of the two last preceding sub-sections of this section the onus of proof that any piece-work price fixed or paid by such person is in accordance with the provisions of such sub-sections shall in all cases lie on the defendant.

Proof that piece-work price corresponds to wages rate.

145. When in any Determination a Wages Board has fixed a wages rate only for wholly or partly preparing or manufacturing either inside or outside a factory any articles or for doing any work then it shall not be lawful for any person to pay or authorize or permit to be paid therefor any piece-work prices, and the receipt or acceptance of any piece-work prices shall not be deemed to be payment or part payment of any such wages.

Piece-work price forbidden where Board has only fixed wage rate.
S. 2 No. 3048.

146. When in any Determination a Wages Board has fixed piece-work prices for wholly or partly preparing or manufacturing any articles and in the description of the work in respect of which such piece-work price is to be paid such Board enumerates several operations, and when any one or more of such operations is by the direction or with the expressed or implied consent of the occupier of the factory or his manager or foreman or agent omitted, such omission shall not affect the price to be paid in connexion with the particular work, but such price shall, unless otherwise provided in such Determination, be that fixed as the price for the whole work described.

Effect on piece work price of varying usual course.
Ibid.

147. Notwithstanding anything contained in this Act the price or rate of payment to be fixed by any Wages Board for wholly or partly preparing or manufacturing any article of furniture† shall wherever practicable be both a piece-work price and a wages rate. The piece-work price shall be based on the wages rate fixed by such Board.

Rate for furniture to be both a piece-work price and a wages rate if practicable.
Ibid.

* Penalty, section 226.

† For additional powers of Furniture Board, see sections 152 and 153 *post*.

Special rates for aged infirm or slow workers.
 s. 2 No. 3048.

148. Where it appears to be just and expedient special wages rates may be fixed for aged infirm or slow workers by any **Wages Board**.*

Exercise of powers.
 Ibid.

149. All powers of any **Wages Board** may be exercised by a majority of the members thereof.

Effect of vacancy.
 Ibid.

150. During any vacancy in a **Wages Board** (other than in the office of chairman) the continuing members may act as if no vacancy existed, provided no member of the Board objects.†

Power of chairman of **Wages Board** to administer oaths.
 Ibid.

151. The chairman of any **Wages Board** may require any person (including a member of a **Wages Board**) giving evidence before a Board to give his evidence on oath and for such purpose shall be entitled to administer an oath accordingly to such person.

Power of **Wages Boards** as to repairing.
 Ibid.

152. A **Wages Board** shall have power to determine the lowest prices or rates to be paid to any person or persons or classes of persons employed in repairing any articles with respect to which such Board may make a Determination.

Experience of apprentice &c. how calculated.
 Ibid.

153. Where by the Determination of a **Wages Board** the wages of an apprentice or of an improver are to vary in accordance with his experience or length of employment in his trade, then for the purpose of determining the wages he is entitled to receive, any time during which such apprentice or improver has worked at his trade shall be reckoned in his length of employment in such trade.

Consideration of experience of young workers.
 Ibid.

154. When fixing the wages rate to be paid to persons (other than apprentices or improvers) under twenty-one years of age for any particular class of work any **Wages Board** may fix different rates having regard to the length of experience of such persons in such particular class.

Wages Board not to sit during working hours except by mutual agreement.
 Ibid.

155. No **Wages Board** shall sit during ordinary working hours in any trade except by mutual agreement of the representatives of the employers and employes on the Board, or by the direction of the Minister.

* Very few Boards have exercised their powers under this section. Under section 202 the Chief Inspector can grant a licence to an old, slow, or infirm worker to work for less than the minimum wage, but it is questionable whether in case a Board had fixed rates, the Chief Inspector could legally grant a licence to work for anything less than the rate fixed by the Board.

† In practice the Boards do not usually decide important points during a vacancy.

DIVISION 4.—MISCELLANEOUS PROVISIONS AS TO
Wages Boards.

S. 2 No. 3048.

The *Special Board heretofore appointed with regard to articles of furniture may also determine the lowest prices or rates which may be paid to female workers employed as upholstresses whether as carpet hands table hands or drapery hands, also to male persons employed in planning and laying carpets or linoleums or floor cloths or fixing draperies or making and fixing window venetian and wire blinds if a resolution has been passed by both Houses of Parliament declaring it is expedient for the *Special Board so to do.

Additional powers for Furniture Board.

157. (1) The *Special Board heretofore appointed and called the Coal Miners Board may if it thinks fit as part of its Determination make rules regulating the cavilling for places which are worked at piece-work prices on any coal mine.

Provision for cavilling for places in coal mines.

(2) Such cavilling shall be carried out by the employes affected.

(3) Any person guilty of any contravention of any such rules or of any failure to carry out the decision or requirements of any such cavil shall on information laid by any person aggrieved be liable on conviction by any Court of Petty Sessions consisting of a Police Magistrate with or without Justices to a penalty not more than Fifty pounds.

158. (1) *Special Boards may be appointed in order to determine the lowest prices or rates which may be paid to any person or persons or classes of persons wheresoever employed in either the whole or any part of the iron-working trade (for which a *Special Board has not been constituted) including—

Rates fixed by Boards for engine-drivers &c. engineering blacksmithing and general ironwork to supersede rates fixed by other Boards for same classes of employes.

- (a) engineering,
- (b) boilermaking,
- (c) blacksmithing,
- (d) general iron work.

(2) The lowest prices or rates which may be determined under and pursuant to this Act by any *Special Board appointed—

- in the occupation of a fireman boiler attendant or engine-driver in connexion with the use of steam-engines or boilers other than steam-engines or boilers connected with mines; or
- under the provisions of paragraphs (a), (b), (c), (d) of sub-section (1)

* These may now be referred to as Wages Boards—Section 2 Act 3048.

for any person or persons or classes of persons shall be the lowest prices or rates to be paid to such person or persons or classes of persons wheresoever employed, notwithstanding that any other rates are determined with respect to such person or persons or classes of persons by any other Wages Board.

s. 2 No. 3048.

Extension of powers of Board for engine-drivers.

159. (1) Any *Special Board appointed—

(a) in the occupation of a fireman boiler attendant or engine-driver in connexion with the use of steam-engines or boilers other than steam-engines or boilers connected with mines; or

(b) in the occupation of a fireman boiler attendant or engine-driver in connexion with a steam-engine or boiler in or about mines of every kind,

is hereby given power to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in the occupation of assistant engine-driver greaser or trimmer in connexion with the use of steam-engines or boilers.

(2) Such *Special Board may exercise all the powers conferred on *Special Boards under this Act so far as any person or persons or classes of persons mentioned in this section are concerned.

Extension of powers of Carters Board.

160. (1) The *Carters Board appointed on the first day of December One thousand nine hundred and nine is hereby given power to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in or in connexion with any stable (other than a livery stable) in which are stabled the horses used in his business trade or occupation by any person subject to the Determination of the said *Special Board.

(2) Such *Special Board may exercise all the powers conferred on *Special Boards under this Act so far as any such person or persons or classes of persons mentioned in this section are concerned.

Wages Board for furniture trade to be appointed without election.

161. Notwithstanding anything contained in this Act the members of any *Special Board to determine or fix the lowest price or rate which may be paid to any person for wholly or partly preparing or manufacturing any particular articles of furniture shall not be elected, and the Governor in Council may from time to time appoint such *Special Board.

162. In the case of the *Special Board for Men's and Boys' Clothing, the representatives of the employers shall consist of three representatives of makers of ready-made clothing and two of makers of order clothing, and the rolls for any election of such respective representatives shall be prepared and votes given in such manner as may be prescribed.

Men's and Boys' Clothing Board.

163. The *Special Board called the Ironmoulders Board appointed on the seventeenth day of December One thousand nine hundred and one is hereby given power to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in the trade of a steelmoulder and to exercise all the powers conferred on *Special Boards under this Act so far as the trade of a steelmoulder is concerned.

Extension of powers of the Ironmoulders Board.

164. (1) The *Special Board heretofore appointed and called the Hotel Employés Board is hereby given power to either—

Additional powers of Hotel Employés Board.

(a) fix prices and rates to be paid to employés without taking into consideration either board or lodging; or

(b) fix prices and rates to be paid to employés varying according to whether full or partial board or lodging is received by the employé.

(2) When the Board makes a Determination having exercised either of these powers it shall be an offence for any employer to accept any payment from any employé under the jurisdiction of the said Board for either board or lodging.

DIVISION 5.—DURATION PUBLICATION AND APPLICATION OF DETERMINATIONS OF WAGES BOARDS AND COURT OF APPEALS. S. 2 No. 3048.

165. (1) Any price or rate† determined by any Wages Board shall from a date (not being within thirty days of such Determination) fixed by such Board be and remain in force until amended by a Determination of

Price or rate as determined to remain in force until altered by a Board.
Ibid.

* These may now be referred to as Wages Boards—Section 2 Act 3048.

† Although this section prevents a price or rate coming into force until after the lapse of thirty days, nothing in the Factories and Shops Acts requires preliminary notice. In practice, the Department endeavours to give reasonable notice in the *Government Gazette*, but there have been instances when circumstances have rendered that impossible, and the Determination has come into force immediately on being published.

s. 2 No. 3048.

such **Wages Board**; but such Determination may at any time be amended or revoked by the Court of Industrial appeals.

Application of determination.

Ibid.

(2) The Determination of any **Wages Board** shall be signed by the chairman thereof and published in the *Government Gazette** and shall apply to the area or locality (including the whole or any part or parts of Victoria) defined by the Governor in Council as the area or locality within which the Determination of such **Wages Board** shall be operative.

Ibid.

Application of amendment of determination.

Ibid.

(3) Every amendment of any Determination of any **Wages Board** at any time made shall apply to the same part or parts of Victoria as the Determination amended.

Children of employer not affected.

Ibid.

166. No Determination of a **Wages Board** shall prevent the sons or daughters of any employer being employed by him in any capacity whether he has or has not the full number of apprentices and improvers and he shall not be bound to pay his sons and daughters the rates fixed by any Determination.

Payment of employé engaged in two or more classes of work.

Ibid.

167. Where any person is employed to perform two or more classes of work to which a rate fixed by a **Wages Board** is applicable then such person shall be paid in respect of the time occupied in each class of work at the rate fixed by the Board for such work.†

Rate of wages throughout day.

Ibid.

168. When any person is employed during any part of a day for an employer at work for which a **Wages Board** has fixed a wages rate then all work whatever done by such person during such day for such employer whether inside or outside a factory or shop or place

* There is nothing in this section to indicate upon whom the duty lies of publishing a Determination in the *Government Gazette*. The amended Determination of the Hairdressers Board was sent to the Minister of Labour in December, 1911. The Minister refused to gazette it. Application was made to Mr. Justice Cussen for a *mandamus*. The Judge refused the application.

† This section imposes the duty upon the employer of paying an employé in accordance with the period of time occupied under each Determination, or under different parts of the same Determination. In cases where several Determinations are operative this may become a difficult matter, and necessitates the times being carefully kept and properly booked. It was the difficulty of carrying out the provisions of this section that induced the appointment of the Country Shop Assistants Board, which fixes a flat rate for all shop assistants in the districts to which the Determination extends, whether they be drapers, grocers, or fancy goods sellers, &c., as it was considered impossible to allocate the time in a country store to each of the many classes of employment.

Compare section 141 (b) as to payment of a *pro rata* amount for less hours worked than those fixed by the Board and section 168.

whatsoever or wheresoever shall be paid for at the same wages rate.*

169. There shall be kept printed painted or affixed in legible Roman characters in some conspicuous place at or near the entrance of each and every factory or shop or place to which the Determination of a Wages Board applies, in such a position as to be easily read by the persons employed therein, a true copy of the Determination of the Wages Board as to the lowest prices or rates of payment determined by such Board.†

Notification of determination where applicable.
S. 2 No. 3045.

Ibid.

170. Where a piece-work price or a wages rate has been fixed by the Determination of any Wages Board for wholly or partly preparing or manufacturing either inside or outside any factory any articles or for doing any work no person shall either directly or indirectly require or compel any person affected by such Determination to accept goods of any kind or board and lodging in lieu of money or in payment or part payment for any work done or wages earned and the receipt or acceptance of any goods or board and lodging shall not be deemed to be payment or part payment for any such work or of any such wages.

Employés not to be paid in goods or board and lodging.

Ibid.

DIVISION 6.—VALIDITY OF DETERMINATION.

171. (1) If any person desires to dispute the validity of any Determination of any Wages Board made or purporting to have been made or continued under any of the provisions of this Act it shall be lawful for such person to apply to the Supreme Court upon affidavit for a rule calling upon the chief inspector to show cause why such Determination should not be quashed either wholly or in part for the illegality thereof; and the said Court may make the said rule absolute or discharge it with or without costs as to the Court seems meet.

Determination of Wages Board challengeable before the Supreme Court only.
Ibid.

* A person who performs voluntary service is not employed within the meaning of section 168 of the *Factories and Shops Act 1912*.

A girl, who was engaged as a domestic servant, occasionally assisted in serving customers in her employer's grocery shop, which was under the same roof as his private residence. Her assistance was quite voluntary, being given as an act of courtesy to her employer.

Held, that the girl was not "employed" in the shop within the meaning of section 168 of the *Factories and Shops Act 1912*, and was therefore not entitled to be paid the wages fixed by the Grocers Wages Board.

Per Hodges, J.—To constitute employment within the section, an agreement for payment for services is not necessary, but there must be something done for the employer with his knowledge.

Per Cussen, J.—A person may be employed within the meaning of the section, although there is no contract of service, but there must be something in the nature of a recognition of the acts done, and possibly of an expectation that they would be done.—*Ballantyne v. Hinchliffe*, 21 A.L.R., 34.

† For particulars of other information to be posted up in factories, see section 22; as to shops, see section 126.

S. 2 No. 3048.

(2) Every Determination of any **Wages Board** shall unless and until so quashed have and be deemed and taken to have the like force validity and effect as if such Determination had been enacted in this Act, and shall not be in any manner liable to be challenged or disputed; but any such Determination may be altered or revoked by any subsequent Determination under this Act.

DIVISION 7.—SUSPENSION OF DETERMINATION.

Power to suspend determination of any **Wages Board**.

172. (1) Notwithstanding anything contained in this Act the Governor in Council may at any time for such period or periods as he thinks fit not exceeding six months in the whole by order published in the *Government Gazette* suspend the operation of the Determination of any **Wages Board**.* When the operation of any Determination (whether published in the *Government Gazette* or not) is so suspended it shall be the duty of such **Wages Board** to forthwith hear receive and examine evidence as to such Determination, and thereupon such **Wages Board** may either adhere to the said Determination or may make such amendments therein as to such Board seems proper.

Ibid.

Ibid.

Publication of amended determination.

Ibid.

Ibid.

(2) In the event of such **Wages Board** making any such amendments such Determination as so amended shall forthwith be published in the *Government Gazette* and shall for all purposes be deemed and taken to be the Determination of such **Wages Board** from such date as may be fixed in such amended Determination, and the suspended Determination shall thereupon have no further force or effect.

Removal of suspension.

Ibid.

(3) In the event of such **Wages Board** notifying the Minister that such Board adheres to its Determination without amendment such suspension of the operation of such Determination shall by an Order in Council published in the *Government Gazette* be revoked from such date not later than fourteen days as may be fixed in such order.

Power to suspend a determination in case of a strike.

173. Where the Minister is satisfied that an organized strike or industrial dispute is about to take place or has actually taken place in connexion with any trade as to any matter which is the subject of a Determination of a

* This provision became law on 27th September, 1897, by virtue of section 6 of the *Factories and Shops Act* 1897 (No. 1518), and the power of suspension was exercised on only two occasions. On 25th November, 1897, the Governor in Council suspended the first Determination of the *Root Board*, and on 20th July, 1914, suspended the Determination of the *Bread Board*.

Wages Board or of the Court of Industrial Appeals the Governor in Council may by order published in the *Government Gazette* suspend† for any period not exceeding twelve months the whole or any part or parts of such Determination so far as it relates to the matter in reference to which such organized strike or industrial dispute is about to take place or has taken place, and such suspension may at any time by an order published in the *Government Gazette* be removed by the Governor in Council or altered or amended in such manner as he thinks fit. S. 2 No. 3048.

PART VIII.—COURT OF INDUSTRIAL APPEALS.

174. (1) There shall be a Court of Industrial Appeals for deciding all appeals against a Determination of a **Wages Board** and for dealing with any Determination of a **Wages Board** referred to the Court by the Minister. Court of Industrial Appeals.
Ibid.

(2) Such Court shall consist of a President and two other persons. Members of the Court.

(3) A Court of Industrial Appeals consisting of the President and of two other persons as aforesaid shall be constituted from time to time as occasion requires by Order in Council published in the *Government Gazette*. Court constituted by Order in Council.

(4) (a) The President—

- (i) shall be such one of the Judges of the Supreme Court as the Governor in Council appoints; President to sit in all Courts of Industrial Appeals.
- (ii) shall be entitled to hold office as President for such period as the Governor in Council thinks fit; and
- (iii) shall sit in every Court of Industrial Appeals constituted from time to time.

(b) The two other persons constituting a Court of Industrial Appeals shall be such persons as are appointed by the Governor in Council upon nomination as hereinafter provided; but they shall act only in the Court of Industrial Appeals for which they are appointed. Two other persons appointed as occasion requires.

† The power of suspension under section 173 has been exercised on three occasions. On 13th October, 1913, the Determination of the Builders' Labourers Board was suspended for six months. The Stovemmen Packers and Sorters' Determination was suspended for six months on 17th February, 1916, but the suspension was removed on July 24th, 1916. On 16th May, 1916, the Determination of the Bread Board was suspended for twelve months, but subsequently an Order was passed removing the suspension from August 8th, 1916.

Nomination of persons to represent employers and employés on court.

S. 2 No. 3048.

Ibid.

Default of nomination. Vacancies.

President and two other persons to hear appeals and references.

Remuneration of persons representing employers and employés on court.

S. 19 (1) No. 3048.

Registrar.

Rules of practice.

(5) (a) When a Determination of a **Wages Board** is appealed against in accordance with the provisions of this Act or is referred by the Minister for the consideration of the Court of Industrial Appeals then within twenty-one days from the date of the appeal or the reference (as the case may be)—

the representatives of the employers on such **Wages Board** shall nominate one person to represent the employers, and

the representatives of the employés shall nominate one person to represent the employés.

(b) Nominations shall be made in writing and shall be forwarded to the Minister.

(c) only persons who are *bonâ fide* and actually engaged in the trade concerned or who have been so engaged for at least six months during the three years immediately preceding such nomination shall be eligible for nomination.

(6) If default is made in nominating an eligible person to represent the employers or the employés (as the case may be), or if any vacancy in a Court occurs by reason of death, resignation, incapacity, refusal to act, or otherwise, the Minister may nominate some similarly qualified person to represent the employers or the employés (as the case may require) on such Court.

(7) The President and the two other persons constituting a Court of Industrial Appeals shall hear and determine every appeal and reference to such Court; and subject to this Act a majority shall decide.

(8) Every person appointed to represent the employers or the employés on a Court of Industrial Appeals shall be paid a fee of Two pounds for every full day of attendance at such Court.

(9) (a) Subject to the *Public Service Act* 1915 the Governor in Council may appoint a Registrar of the Court of Industrial Appeals who shall be an officer of the **Department of Labour**.

(b) The Registrar shall attend the sittings of the Court of Industrial Appeals.

(10) The Governor in Council may make general rules to carry into effect the provisions of this Act with respect to the Court of Industrial Appeals and in particular

with respect to the summoning of and procedure before any such Court and the publication of such rules. Subject to such rules (if any) the Court may regulate its own procedure.

175. Where any Determination made by a **Wages Board** either before or after the commencement of this Act is being dealt with by the Court, such Court shall consider whether the Determination appealed against has had or may have the effect of prejudicing the progress maintenance of or scope of employment in the trade or industry affected by any such price or rate; and if of opinion that it has had or may have such effect the Court shall make such alterations as in its opinion may be necessary to remove or prevent such effect and at the same time to secure a living wage to the employés in such trade or industry who are affected by such determination.

Principles on appeals from determinations.
S. 2 No. 3048.

Living wage.

176. (1) Notwithstanding anything contained in this Act a majority of the representatives of employers or a majority of the representatives of employés on any **Wages Board** or any employer or group of employers who employ not less than twenty-five per centum of the total number of the workers in any trade or twenty-five per centum or more of the workers in any trade, may at any time in the prescribed* manner appeal against such determination to the Court†. For the purposes of this sub-section the Court shall accept the records given by the chief inspector in his latest annual report.

Appeal to court.

ibid.

(2) The Minister may without appeal at any time after the making of a Determination by a **Wages Board**, refer such Determination for the consideration of the Court, and may also refer any appeal made as hereinbefore provided for the consideration of the Court.

ibid.

(3) No appeal against or reference to the Court of a Determination which has been published in the *Government Gazette* shall have the effect of suspending or delaying the operation of such determination.

* The regulations at p. 160 *post*.

† The power given by this section is to be distinguished from the power to challenge a Determination before the Supreme Court under section 171 *ante*, in which latter case it is only challengeable for illegality. While the Court is considering the Determination the Board has no powers whatever, nor has it any power to alter or amend the Determination afterwards until such time as it obtains leave to do so from the Court under sub-section (9) of this section or until the expiration of twelve months from the date of the Determination by the Court (Section 13 No. 3048).

S. 2 No. 3048.

(4) Every Determination of a **Wages Board** referred to the Court by the Minister and such documents relating thereto as may be deemed necessary shall be forwarded by the chief inspector to the Registrar of the Court.

(5) Except as hereinafter provided no barrister and solicitor or agent shall be allowed to appear before or be heard by the Court. By the direction of the Court or with the consent of both parties to the appeal or reference either party may at its own cost be represented by a barrister and solicitor or agent. In appeals by a minority of employers or employes as provided under sub-section (1) of this section the Court may give such directions for the representation of parties as may in the circumstances appear to be proper.

Ibid.

(6) The Court shall have and may exercise all or any of the powers conferred on a **Wages Board** by this Act and may either increase or decrease any prices or rates of payment (whether piece-work prices or wages rates) and shall have full power to amend the whole or any part of any Determination of a **Wages Board**.*

Ibid.

* An appeal to the Court of Industrial Appeals from the determination of a Wages Board is in the nature of a rehearing, and the Court is not confined to a consideration of the materials which were before the Board in coming to a conclusion as to what should be the minimum wage in the trade, process, or business for which the Wages Board was appointed. Mr. Justice Hood, *in re* the Bread Board, 13 A.L.R. 589. Mr. Justice Hodges, *in re* the Ice Board, 16 A.L.R. 46.

Appended is a list of the Determinations dealt with by the Court of Industrial Appeals:—

- On 14th September, 1904. Artificial Manure Board—Appeal by employers. Wages reduced from 40s. 6d. to 36s.
- 17th September, 1906. Fellmongers Board—Appeal by employers. Hours increased, 48 to 54.
- 2nd October, 1906. Fellmongers Board—Appeal by workers. Hours reduced, 54 to 48, and wages increased 42s. to 45s.
- 11th October, 1906. Printers Board—Appeal by employers. Court refused to alter Determination.
- 15th August, 1907. Bread Board—Appeal by employers. Wages reduced, 54s. to 50s.
- 12th November, 1909. Ice Board—Appeal by employers. Wages reduced, 1s. 3d. to 1s. per hour.
- 16th November, 1909. Hairdressers Board—Appeal by employers. Wages were not altered, but proportion of improvers amended.
- 24th July, 1912. Boilermakers Board—Appeal by employers against 54s. and 48s. for labourers. Rates fixed by court at 54s., 52s., 50s., and 48s.
- 21st December, 1912. Clerks Board (Commercial). Reference by Minister of Labour as to rates for female typists. The court refused to affirm the principle of equal pay for males and females and fixed lower rates (32s. and 28s.) for women.
- 3rd June, 1913. Fuel and Fodder Board. Appeal by employers. Wages reduced from 68s. 60s. and 54s. to 64s. 52s. and 48s. respectively, and the hours of carters increased from 52 to 58.
- 9th July, 1913. Artificial Manure Board. Appeal by employers. Wages were, in a few cases, reduced.
- 27th August, 1913. Builders' Labourers Board. Appeal by employers. The court increased the hours from 44 to 48, and in some cases increased wages, in other cases reduced them.
- 27th August, 1913. Country Printers Board. Appeal by workers. Wages increased, 45s. to 48s.

(7) The Court shall have and may exercise in respect of the summoning sending for and examining of witnesses documents and books and in respect of persons summoned or giving evidence before the Court the same powers as are by the *Evidence Act 1915* conferred on a Board or Commission appointed or issued by the

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- 22nd April, 1914. Stonecutters Board. Appeal by employers. Wages of adults were slightly reduced and hours increased. Improvers' wages were increased.
- 21st May, 1914. Confectioners Board. Appeal by employers. The court by consent of both sides, raised slightly the rates for juveniles, and reduced those of adults.
- 25th July, 1914. Carters Board. Appeal by employers against rates. Appeal withdrawn.
- 31st July, 1914. Clerks Board (Commercial). Appeal by employers. The court slightly increased metropolitan rates for clerks, and reduced other rates.
- 25th February, 1915. Carters Board. Appeal by employes against rates. Appeal withdrawn.
- 23rd June, 1915. Builders' Labourers Board. Application by employes for variation of existing Determination of Court Rates were varied and hours reduced from 48 to 44.
- 18th December, 1915. Gold Miners Board. Appeal by employers. Appeal abandoned.
- 5th January, 1916. Country Printers' Board. Reference on behalf of the employes with a view to a variation of the Court's Determination. A conference was held, and an agreement providing for a general increase in wages was embodied in the Determination of the Court.
- 4th August, 1916. Sewer Builders Board. Appeal by employers. The court reduced the wages to the extent of 1d. to 2½d. per hour in several instances, but the hours per week were increased from 44 to 48.
- 5th September, 1916. Commercial Clerks Board. Reference by the Minister upon representations by employes. Wages were increased by 2s. per week for males and 1s. per week for females. The court refused to grant the claim of equal pay for male and female clerks.
- 20th October, 1916. Quarry Board. Appeal by employers. The court raised the number of hours per week from 44 to 48 and increased the minimum wage by 6s. per week.
- 10th March, 1917. Hotel Employes Board. Appeal by employes to have a week of 48 hours for all employes. The court declined to interfere with the Board's Determination, except to simplify the wording.
- 17th October, 1917. Underclothing Board. Appeal by employers. The court doubled the number of improvers which may be employed in any place.
- 14th January, 1918. Country Printers Board. Application by employes for a revision of the Determination of the Court. A conference was held and an agreement which provided for increases ranging from 6s. to 8s. in the weekly wages was embodied in the new Determination of the Court.
- 23rd March, 1918. Quarry Board. Application by employes for leave for the Board to alter the Determination of the Court. Before the hearing an agreement was arrived at between the two parties by which wages were increased to the extent of 2s. 6d. to 8s. per week. This agreement was embodied in a Determination of the Court.
- 17th June, 1918. Commercial Clerks Board. Application by employes for leave for Board to alter the Court's Determination. Before the hearing the parties came to an agreement by which the wages of all adult workers were increased, and this embodied in a new Determination of the Court.
- 5th September, 1918. Grocers Board. Appeal by employers on the ground that the wages were too high outside the metropolitan district. The court reduced the rate for all persons receiving a wage of 65s. or over as follows : Ballarat and Bendigo districts, 3s. per week less ; Warrnambool, 2s. per week less.
- 21st September, 1918. Builders' Labourers Board. Application by employes for a revision of the Court's Determination. The minimum wage for adults was increased from 1s. 4d. to 1s. 6d. per hour and the scale of allowances was varied.
- 21st December, 1918. Plumbers Board. Appeal by employer. The court made special provision for persons employed solely as gas main or service layers and fixed their rate at 1s. 8d. per hour.

Governor in Council; provided however that every summons to attend the Court may be signed by the Registrar.

(8) No evidence relating to any trade secret or to the profits or financial position of any witness or party shall be disclosed or published without the consent of the person entitled to the trade secret or non-disclosure.

(9) The Determination of the Court shall be final and without appeal and may not be reviewed or altered by a **Wages Board** without leave of the Court, but the Court if satisfied upon affidavit that a *prima facie* case for review exists may either give such leave or may direct a rehearing before the Court, when the Court may itself alter or amend its Determination.

S. 2 No. 3048.

As to alteration
&c. of
Determination
of Court by
Wages Board
concerned.

13 (Act No. 3048). Provided that when a period of twelve months has elapsed from the date of any Determination of the Court, whether made before or after the commencement of this Act, or of the latest revision, alteration or amendment of any such Determination by the Court (as the case may be) the **Wages Board** concerned shall, after the expiration of such period or (in any case where such period has expired before the commencement of this Act) after the commencement of this Act have the right without leave of the Court to review or alter the Determination; and any Determination of the Court when reviewed or altered pursuant to this sub-section by a **Wages Board**, whether with or without leave, shall be the Determination of the **Wages Board** and the provisions of the **Factories and Shops Acts** shall take effect accordingly.

(10) The Determination of the Court shall be forwarded to the Minister by the Registrar.

Publication, &c.

177. (1) The Minister shall cause each Determination of the Court to be published in the *Government Gazette* and such Determination shall apply to every part of Victoria to which the referred Determination applies or is expressly applied.

(2) The production before any Court Judge or justice of a copy of the *Government Gazette* containing a Determination of the Court shall be conclusive evidence of the making and existence of such Determination and of the constitution of such Court and of all preliminary steps necessary to the making of such Determination.

(3) The provisions of this Act for or relating to the enforcement of any Determination of a Wages Board shall equally apply to any Determination made by the Court, and such provisions shall with such substitutions as may be necessary be read and construed accordingly. S. 2 No. 3048.

178. A Determination of the Court of Industrial Appeals may be dealt with by the Governor in Council in the same way in every respect as if it were a Determination of a Wages Board. Power of Governor in Council with respect to determination of Court of Industrial Appeals. *Ibid.*

179. Notwithstanding anything in this Act any Determination made before the first day of January One thousand nine hundred and fifteen by the Court of Industrial Appeals as theretofore constituted and whether such Determination is in force or suspended shall for all purposes— Existing determinations of Court of Industrial Appeals.

- (i) be deemed and taken to be, and
- (ii) have the like force and effect and validity as if it were

a Determination (in force or suspended as the case may be) of a Court of Industrial Appeals as constituted under this Act.

Provided that the Minister if satisfied upon affidavit that a *prima facie* case exists for the review of any such Determination may advise the Governor in Council to constitute a Court of Industrial Appeals as hereinbefore provided and upon such Court being constituted may refer the application for review for the consideration of the said Court which application the said Court is (in addition to all other powers vested in the said Court by this Act) hereby authorized to consider and to hear and determine.

180. The Court of Industrial Appeals may revise or alter its own Determination at any time and from time to time on the application of either the representatives of employers or representatives of employes on the Wages Board. Court of Industrial Appeals may revise or alter its determination. *Ibid.*

181. In addition to the powers otherwise conferred upon the Court of Industrial Appeals the said Court shall have all the powers of the Supreme Court which last-mentioned powers shall be exercised only by the President; and the Court of Industrial Appeals shall in every case be guided by the real justice of the matter without regard to legal forms and solemnities and Powers of President of court. Procedure to be informal.

shall direct itself by the best evidence it can procure or that is laid before it whether the same be such evidence as the law would require or admit in other cases or not; and if the Court considers any further evidence or information which would assist the Court could be obtained, the Court shall intimate in open Court what further evidence or information the Court desires.

PART IX.—APPRENTICES AND IMPROVERS.

DIVISION 1.—APPRENTICES AND IMPROVERS.

Wages Boards to fix number or proportionate number of apprentices and improvers, &c.
S. 2 No. 3048.

182. (1) When determining any prices or rates of payment every Wages Board shall also determine—

- (a) the number or proportionate number of apprentices and improvers who may be employed within any factory or shop or place or in any trade; and*
- (b) the lowest prices or rates of pay payable to apprentices† or improvers.

(2) The Board when so determining may—

- (a) take into consideration the age sex and experience of such apprentices or improvers;
- (b) fix a scale of prices or rates payable to such apprentices or improvers respectively according to their respective age sex and experience; and‡
- (c) fix a different number or proportionate number of male and female apprentices or improvers;

Board to take into consideration age sex and experience of apprentices and improvers

Proportion of male and female apprentices and improvers.

* It will be noted that a Board is given power to determine the number or proportionate number of apprentices and improvers who may be employed—

- (1) in any factory or shop or place;
- (2) in any trade.

Boards have always fixed the number with reference to a factory, shop, or place, or with reference to an individual employer. It is difficult to see how a fixing of the number in a process, trade, business, or occupation could be practically administered, seeing that there would be no means of deciding how many improvers or apprentices any particular employer would be entitled to.

† Any improver may, at the option of his employer, be put to any class of work. It is allowable for a Board to fix varying rates for improvers according to the work at which they are employed. The case is different, however, regarding apprentices. An apprentice has to be taught the whole of the trade to which he is apprenticed, and only one scale of payment can be fixed, no matter what his work.

‡ HOW TO BIND AN APPRENTICE.

1. Secure three forms of indenture. Every Wages Board has the right to decide the form of indentures in its trade and many Boards have drawn up forms. These forms can be obtained from the Government Printer, near Spring-street, Melbourne, for 9d. a set, or posted 10½d. a set. In trades where no indenture form has been prescribed a suitable form may be obtained in the same way.

2. The indenture forms should be carefully filled in. Any officer of the Department of Labour will help in this.

3. Each of the three copies should be signed by the employer or his attorney, the parent or guardian, and the apprentice. A seal should be put opposite each signature and each person after signing should place his right forefinger on his seal and say "I deliver this as my act and deed."

Each of the three parties should retain one copy of the indenture.

A copy of an approved indenture will be found on page 125.

(d) prescribe the form of apprenticeship indentures to be used.†

(e) approve of courses of technical education including correspondence courses which in the opinion of the board it is desirable should be taken by apprentices or improvers.

Power to approve courses of technical education.
S. 24 No. 3048.

Any Board having approved of a course of technical education for such employes shall report the same to the Minister who may with such terms and conditions as he thinks fit make it applicable only to such trades or portion of such trades in districts or portions of districts as he may prescribe.

(3) In fixing the number or proportionate number of apprentices the Board shall not fix a less number or proportionate number than one apprentice for every three or fraction of three workers engaged in the particular trade and receiving the minimum wage or earning at piece-work not less than the minimum wage fixed for the time by such Determination.

(4) *Repealed by Section 20, Act No. 3048.*

183. No person who has a greater number of apprentices in his employ than is prescribed in the Determination of a Wages Board shall be or be deemed to be guilty of a contravention of this Act if he proves—

Act not contravened in certain cases by number of apprentices being in excess of Board's determination.
S. 2 No. 3048.

(a) that such apprentices employed by him were under indentures of apprenticeship entered into before the thirty-first day of December One thousand nine hundred and ten; or

(b) that at the date of entering into the indentures of apprenticeship in respect of the last apprentice employed by him and for three months previous thereto he had in his employ such number of persons other than apprentices and improvers as at that date entitled him to the number of apprentices (including such last apprentice) in his employ.

DIVISION 2.—APPRENTICES.

184. Where any indentures of apprenticeship are entered into with respect to any trade to which the

Wages to be paid to apprentices.

† An example of a simple form of indenture which is applicable to all trades and which experience has shown work advantageously to both employer and employe will be found at p. 125. It is desirable for the sake of uniformity and economy that apprenticeship agreements should be as far as possible identical in all trades.

s. 2 No. 3048. Determination of a **Wages Board** applies and the wages to be paid to the apprentice are stated in such indentures then notwithstanding anything contained in this Act and notwithstanding any subsequent alteration of such Determination by such **Wages Board** the wages to be paid to such apprentice during the currency of such indentures shall be the wages stated in the indentures.

Ibid.

Determination not to affect certain apprentices.
Ibid.

185. Where any apprentice under the age of twenty-one years has been bound in writing by indentures of apprenticeship for a period of not less than two years, no provision in any Determination of a **Wages Board** shall invalidate cancel or alter such deed of apprenticeship in any way whatever if such deed of apprenticeship was signed by all parties thereto before the notice of motion for the resolution for the appointment of such **Wages Board** was given in either House of Parliament.

As to absence of seal on indenture.

186. No indenture of apprenticeship shall be deemed to be invalid under this Act by reason only that such indenture is not under seal.

Form of indenture.
Ibid.

187. No indenture of apprenticeship shall be entered into in connexion with any trade working under this Act except in the form (if any) prescribed by any **Wages Board** dealing with such trade and approved of by the Minister.*

As to failure to carry out terms of an indenture.

188. (1) Any failure either by an employer or an apprentice to carry out the terms of an indenture of apprenticeship shall be deemed to be a contravention of this section.†

* The power of a **Wages Board** to prescribe the form of indenture will be found in sections 141 and 182. For a convenient form of indenture, see page 125.

† An employer by an indenture in the form prescribed by the Woodworkers Board agreed to take an apprentice for six years and to pay him certain specified wages per week of 48 hours with further rates for overtime. The deed provided that the apprentice should not be paid for any time when absent without leave, or through wilful default, or neglect, or illness. *Held*, that the apprentice was entitled to his wages during the time that the works were closed for holidays, he being then ready and willing to serve.—*Duncan v. James Moore and Sons Prop. Ltd.* 23 A.L.R. 148; 19.7, V.L.R. 240.

Where either an employer or an apprentice considers that the other is committing a breach of any of the covenants full information should be sent to the Chief Inspector of Factories with the duplicate copy of the indenture. Inquiry will then be made, and steps taken by the officers of the Factories Department to enforce observance of the agreement.

(2) When the Minister is satisfied that there is any such failure either by an employer or apprentice he may direct that proceedings shall be instituted against the employer or apprentice as the case may be.

(3) A court of petty sessions may for any such contravention—

(a) impose a penalty not more than Ten pounds and in addition order the defendant to enter into a recognisance within fourteen days in any sum of not more than Fifty pounds with such sureties as the court thinks fit of not more than Fifty pounds each to carry out the terms covenants and conditions of the indentures; and may further order that in default of entering into the recognisance as aforesaid the person or persons in default be imprisoned for a term of not more than one month unless such recognisance be sooner entered into and for a second or subsequent contravention impose on the defendant a penalty not more than Twenty-five pounds and in addition may estreat the recognisance (if any); or

Penalty.
Power of court
to order
recognisance
in certain cases

(b) impose on any employer a penalty of not more than Twenty-five pounds if the court is satisfied that the apprentice has not been taught the trade in accordance with the indenture of apprenticeship and that the employer has not given to the court any satisfactory explanation of such failure to teach the apprentice the trade. The whole or any part of such penalty may be applied for the benefit of the apprentice or otherwise as the Minister determines.

189. The Secretary for Labour may grant permission in writing to any person—

(a) to be bound for less than three years as an apprentice to any trade subject to the Determination of a Wages Board;

Power to bind
certain
apprentices for
less than three
years or if over
21.
S. 21 No. 3048.
S. 2. Ibid.

(b) who may become over twenty-one years of age during the term of his apprenticeship to complete the term of his apprenticeship;

(c) who is over twenty-one years of age to be bound by indentures of apprenticeship.*

Apprentices for under three years.

S. 21 No. 3048.

190. Except in cases where the Secretary for Labour has given his permission in writing as aforesaid all apprentices unless bound by indentures of apprenticeship which bind the employer to instruct such apprentice for a period of at least three years shall be deemed to be improvers for the purposes of this Act.

DIVISION 3.—PROHIBITION OF CERTAIN PREMIUMS AND GUARANTEES.

No premium to be demanded for female apprentices or improvers.

191. Any person who either directly or indirectly or by any pretence or device requires or permits any person to pay or give or who receives from any person any consideration premium or bonus for engaging or employing any female as an apprentice or improver in preparing or manufacturing articles of clothing or wearing apparel shall be guilty of an offence and shall be liable to a penalty of not more than Ten pounds; and the person who pays or gives such consideration premium or bonus may recover the same in any court of competent jurisdiction from the person who received the same.

No premium to be demanded by shopkeeper for apprentices or improvers employed in selling.

192. Any shopkeeper (other than a registered pharmaceutical chemist) who either directly or indirectly or by any pretence or device requires or permits any person to pay or give him or who receives from any person any consideration premium or bonus for engaging or employing any person in connexion with the selling of goods or in connexion with the business of a hairdresser or barber as an apprentice or improver in a shop shall be guilty of an offence and shall be liable to a penalty of not more than Ten pounds; and the person

* Any person of working age and under twenty-one can enter into apprenticeship for a term of three years or over in any trade subject to the Determination of a Wages Board, but if it is desired that the term of apprenticeship be less than three years, an application should be made to the Secretary for Labour, on the form provided for that purpose, which may be obtained at the Department of Labour, Spring-street, Melbourne. That permission will be granted freely in case it is desired to enable a young worker to complete his experience in his trade. If, for instance, he had served three and a half years' apprenticeship to one employer, and desired for any reason (his first indentures having expired or been cancelled) to complete five years' experience by serving one and a half years with another employer, he would be granted permission as a matter of course. If, on the other hand, he had no experience, and wished to be bound newly to a trade for less than three years, or if he wished to begin at a trade after he had passed 21 years of age, the Secretary would require strong reasons. It is one of the principal objects of industrial law to ensure the complete training of artisans. To allow persons over 21 to commence at a trade or to be apprenticed for short periods would be to encourage incompetence. A form of application under any of the paragraphs of this section may be obtained at the Department of Labour, Spring-street, Melbourne.

who pays or gives such consideration premium or bonus may recover the same in any court of competent jurisdiction from the person who received the same.

193. (1) Except with the consent of the Minister in writing no person shall require or permit any person to pay any sum of money or enter into or make any guarantee or promise requiring or undertaking that such person shall pay any sum of money in the event of the behaviour or attendance or obedience of any apprentice improver or employé not being at any time satisfactory to the employer.

Certain
guarantees
illegal.

(2) Any such guarantee or promise as aforesaid or to the like effect entered into or made without the consent of the Minister as aforesaid shall be null and void, and any person who without such consent makes or requires such guarantee or promise shall be liable to a penalty of not more than Ten pounds.

(3) Any sum which is paid in pursuance of such a guarantee or promise as aforesaid or to the like effect made in contravention of this section shall be returned to the person paying the same; and the person who has so paid any such sum may if the same is not returned to him on demand recover the same with costs in any court of competent jurisdiction from the person who received the same.

DIVISION 4.—IMPROVERS.

194. (1) The Secretary for Labour is hereby authorized to grant to any person over twenty-one years of age who has satisfied him that such person has not had the full experience prescribed for improvers by the Wages Board a licence to work as an improver for the period named in such licence at the wage fixed by the Board for an improver of any like experience.*

Licence to
improvers over
21 years old.

S. 21 No. 3048.

S. 2 *ibid.*

*An improver's licence is required only by an improver who reaches the age of twenty-one without having served the full term required to learn the trade. If he has served in the trade for a period equal to the term of apprenticeship he should be regarded as a trained workman and should command the minimum wage. An "improver" is really an unindentured apprentice. He is improving his knowledge and skill in his trade, and the licence is for the purpose of enabling him to complete his partially accomplished education. Thus it happens that licences are not granted to persons over 21 years who have never worked at the trade. Such a person has sometimes been granted a permit to be apprenticed—failing that he must be paid the minimum wage.

The licence states on its face the wages to be paid. The wages so stated must be at least those fixed in the Determination for an improver of like experience and age. There is no power to grant a licence at any lower rate.

An apprentice is indentured to a particular employer, and is protected by his agreement and by the Department, which will enforce his proper teaching and treatment, but an improver can work for whom he pleases and can be put to whatever work his employer chooses. He must pick up his trade as he may, and there is no means of insuring that he will eventually become a competent skilled workman.

A definition of "improver" will be found in Section 3.

Certificate of employment for improvers.
 s. 2 No. 3048.

Sixth Schedule.

(2) The employer of any improver in any trade subject to the Determination of a Wages Board shall at the termination of the employment give him a certificate in the form of the Sixth Schedule correctly showing the duration and nature of such employment.

(3) When any improver seeks employment from any employer he shall produce to that employer all certificates previously given to him as aforesaid.

PART X.—MISCELLANEOUS.

DIVISION 1.—REGISTRATION OF OUTSIDE WORKERS.

Names and addresses of outside workers to be registered.

195. (1) Every person who outside a factory wholly or partly prepares or manufactures for trade or sale any articles of clothing or wearing apparel or boots or shoes shall either personally or by written notice register with the chief inspector his full name and address and also from time to time in like manner register with the chief inspector any change in such address.

Registered person to answer inspector's questions.

(2) Every person so registered shall answer all questions put to him by an inspector as to the person for whom the articles are being prepared or manufactured and the price or rate to be paid to him therefor; provided that no woman or girl shall be asked such questions except by a female inspector.

Penalty.

(3) Every person guilty of a contravention of sub-section (1) or (2) of this section shall for every offence be liable to a penalty of not more than Ten shillings.

Penalty on officers divulging information re outside workers.
 s. 19 (2)
 No. 3048.
 Ibid.

(4) Notwithstanding anything contained in this Act no names or addresses registered pursuant to this section shall be published in any manner or be open to the public or be seen by any person other than the Secretary for Labour the Chief Inspector or the officers of the Department of Labour. The Secretary for Labour the Chief Inspector and the officers of the Department of Labour shall maintain and aid in maintaining secrecy as to the names and addresses so registered and shall not communicate any such name or address to any person whomsoever except for the purposes of enforcing the provisions of this Act. Every person before acting as Secretary for Labour Chief Inspector or as an officer of the Department of Labour shall take and subscribe before some justice such oath of secrecy as may be prescribed.* Every person who wilfully acts in contravention of this sub-section or of such oath shall be liable to a penalty of not more than One hundred pounds.†

Ibid.

Oath of secrecy.

* The regulations at p. 161.

† Secrecy must also be maintained as to the contents of records—section 12.

196. (1) No person who is or is deemed to be the occupier of a factory within the meaning of section twenty-three of this Act shall issue or give out or authorize or permit to be issued or given out any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel for trade or sale except to a person who has been registered as an outside worker provided that no such outside worker shall employ any other person or persons whatsoever in wholly or partly preparing or manufacturing such articles of clothing or wearing apparel save and except members of such worker's own family.*

Material not to be given to unregistered out-workers to be made up into articles of clothing &c.

(2) Any person guilty of a contravention of this section shall for every offence be liable to a penalty of not more than Five pounds.

Penalty.

DIVISION 2.—REGISTRATION OF PLACES OTHER THAN REGISTERED FACTORIES.

197. (1) The occupier of every place where any person other than members of the employer's family related in the first or second degree by blood or marriage to the employer is employed in a process trade business or occupation to which the Determination of any Wages Board applies and which is not registered as a factory or shop shall register with the chief inspector his full name and the locality (giving the name of the street and the number if any) of such place.†

Registration of places (other than registered factories) where there are carried on processes, trades, businesses or occupations to which any determinations apply.

S. 2 No. 3048.

(2) In each and every such place there shall be made a true record in such form and giving such particulars as may be prescribed‡ as to the names work and wages of the persons employed therein and the name and age of every such person who is under twenty-one years of age and such record shall be produced for inspection whenever demanded by the inspector and shall be forwarded annually to the chief inspector at such time as may be prescribed or whenever demanded by the chief inspector.

Records to be kept.

(3) There shall be kept printed painted or affixed in legible Roman characters on such part of the premises as an inspector may direct or approve near to the outside of the principal outer door of every such place the name of the occupier thereof or if such occupier is a company the registered name of such company or if

Name of occupier.

* The occupier of a factory must keep a record of all work done for him elsewhere than at his factory, and is required to supply the Chief Inspector of Factories with particulars thereof—section 23.

† The Determination of a Wages Board does not affect the children of an employer. (See section 166.)

‡ The regulations at p. 158.

such occupier is a firm of persons the firm name of such firm.

Penalty.

(4) In the event of a contravention of any of the provisions of this section in regard to any such place the occupier thereof shall be liable to a penalty of not more than Twenty shillings for every day during which any of the said provisions are not complied with.

Inspection.

(5) With regard to such place and the occupier thereof and his agents servants and employés and the books register and documents therein every inspector of factories shall have the like powers as such inspector has under this Act in respect to a factory.

DIVISION 3.—EMPLOYEES NOT TO LODGE IN FACTORY OR SHOP.

Occupier of factory or shop not to have employés as lodgers.

198. (1) It shall not be lawful for any occupier of a factory or shop (other than a shop mentioned in the Fourth Schedule to this Act) his wife or child directly or indirectly for any consideration to keep or receive adult employés as boarders or lodgers or have any share or interest in the keeping of a lodging-house in which his employés board or lodge. Provided that the chief inspector may if he thinks fit allow an occupier of a factory or shop or his wife or child to accept money for board or lodging from an employé subject to such conditions as the chief inspector may impose.*

(2) Except as in this section provided no employé shall pay to any occupier of a factory or shop or his wife or child any sum of money whatever for board or lodging or give credit therefor.†

DIVISION 4.—FORTNIGHTLY PAYMENT OF WAGES.

Fortnightly payment of wages.

199. Every employer shall pay or cause to be paid at least once in every fortnight all wages due to every person employed by him in any process trade business or occupation subject to any Determination of a Wages Board.

s. 2 No. 3048.

DIVISION 5.—RESTRICTIONS AS TO GIRLS LIFTING HEAVY WEIGHTS.

Girls not to be permitted to lift heavy weights.

200. No person employing any girl under the age of eighteen years in a factory or shop shall permit such girl while so employed to lift or carry a greater weight than twenty-five pounds.

* Forms will be supplied on application to the Chief Inspector of Factories. If the applicant lives at any considerable distance from the Chief Inspector of Factories' Office, the application may be made by letter. It is usual to grant permission only in cases where there is some difficulty in procuring lodging, except at a hotel or at the employer's establishment.

† As to maximum rent to be paid by resident shop managers or assistants, see section 108.

DIVISION 6.—AMBULANCE CHEST.

201. Every factory or shop where steam electrical water or other power driven machinery is running shall have a first-aid ambulance chest equipped and supplied in the prescribed manner upon the premises. §

Where machinery running first-aid appliances to be kept.
S. 22 No. 3048.

DIVISION 7.—OLD SLOW AND INFIRM WORKERS.

202. (1) If it is proved to the satisfaction of the chief inspector that any person by reason of age slowness or infirmity* is unable to obtain employment at the minimum wage fixed by any Wages Board, the chief inspector may in such case grant to such aged or infirm or slow worker a licence† for twelve months to work at a less wage (to be named in such licence) than the said minimum wage, and such licence may be renewed from time to time.

Aged slow or infirm workers.
S. 2 No. 3048.

(2) The number of persons so licensed as slow workers employed in any factory shall not without the consent of the Minister exceed the proportion of one-fifth of the whole number of persons employed in such factory at the minimum wage fixed for adults or at piece-work prices provided that one licensed slow worker may be employed in any registered factory and any person who without such consent employs any greater number than such proportion shall be guilty of a contravention of this Act.

(3) Any person who either directly or indirectly or by any pretence or device pays or offers to pay or permits any person to offer or pay any such aged or infirm or slow worker at a lower rate than that fixed by the chief inspector in such licence shall be deemed to be guilty of a contravention of this Act. †

(4) In the event of the chief inspector refusing to grant such licence such person may appeal to the Minister who may grant such licence in the place of such inspector.

* Wages Boards may fix special wages rates for aged, infirm, or slow workers (See section 148.)

† These licences are only granted in extreme cases to people who, through age, some physical or mental defect, or through some permanent weakness, are unable to do anything like an average day's work. They are not granted to any but persons who have served in and learnt the trade for which they desire a licence. For example, a labourer would not be granted a licence to work as a slow worker in the saddlery trade, nor would an old or infirm saddler be allowed in the boot-making trade. Applications should be backed up by full information as to the age, slowness, or infirmity of the applicant, and should be made on the form supplied for that purpose at the office of the Chief Inspector of Factories in Melbourne. It should further be remembered that these applications should not properly be granted on the ground of inexperience at the trade. In that case an Improver's Licence (section 194) is more applicable. Within the Metropolitan District the applicant should, if possible, attend at the Chief Inspector's Office to make the application.

‡ Penalty, section 226.

§ See p. 162 for the Regulations.

PART XI.—HOLIDAYS.

DIVISION 1.—BREAD.

Bread bakers' and pastrycooks' yearly holiday in Metropolitan and Geelong Districts.

203. The third Tuesday in January in each year shall in the Metropolitan and Geelong Districts be a factory holiday for bread bakers and pastrycooks. No bread or pastry shall be made or baked for trade or sale in the Metropolitan District or Geelong District on that day.

Bread carters to have two holidays a month.

204. (1) Every baker or pastrycook shall permit every person employed by him in delivering bread to have and take a holiday for the whole of the first and third Wednesday in each and every calendar month. Provided that when a public holiday occurs in the same week as the first or third Wednesday in any month such public holiday shall be observed as a whole holiday in lieu of such first or third Wednesday.

Application to shires.

(2) The provisions of this section shall apply to all cities towns and boroughs and may be extended by the Governor in Council from time to time to the whole or any specified part of any shire.*

Offence.

(3) The employer of any person engaged in delivering bread shall in respect of each such person who has not in any month had and taken either holiday pursuant to this section be deemed to have been guilty of an offence against the provisions of this Act.

S. 14 No. 3048.

(4) Any person who on any holiday under this section delivers bread (whether in the form of loaves rolls or in any other form) in any way whatever except by retail over the counter shall be guilty of an offence against this Act.

205. *Repealed by Section 14 (2), Act No. 3048.*

DIVISION 2.—MEAT.

Half-holiday every week for persons delivering meat.

206. (1) Every butcher or seller of meat or maker or seller of small goods shall permit every person employed by him in delivering meat to have and take a half-holiday from the hour of one o'clock in the afternoon on some Monday Tuesday Wednesday Thursday Friday or Saturday in each and every week.

* An extension of this section has been made to all that part of the municipal district of the Shire of Moorabbin which is situate north of Balcombe-road and north of Lower Dandenong-road (gazetted 6th March, 1912.) This is the only extension of this section that has been made.

(2) Upon receiving a petition certified by the municipal clerk of any municipal district as being signed by a majority of the butchers having shops* in such district the Governor in Council may make regulations prohibiting the delivery of meat from a cart or in the street or at any house or premises on any one specified day in each month or on any specified afternoon in each week after one o'clock.†

Restriction on delivery of meat on certain day in each week.

(3) The municipal clerk of such district is hereby required when any such petition is presented to him by any petitioner or is referred to him by the Minister to certify whether or not such petition has been signed by a majority of the butchers having shops in such district.

Certification of petition.

(4) The employer of any person engaged in delivering meat shall in respect to each such person who has not in any week had and taken a half-holiday pursuant to this section be deemed to have been guilty of an offence against the provisions of this Act.

Offence.

207. (1) Every shop in the Metropolitan and Geelong Districts in which fresh uncooked meat is sold and every factory in which small goods are made shall be closed on the whole of the third Wednesday in January in each year and every employé in such shop or factory and all persons employed in abattoirs or private slaughter-houses in the said district shall be given a whole holiday on such day and every such shop may be kept open till nine o'clock on the Tuesday preceding the third Wednesday in January in each year.

Butchers' holiday.

S. 15 No. 3048.

Provided that nothing in this section so far as it relates to abattoirs or private slaughter-houses shall apply to persons employed only in connexion with the export trade.

Ibid.

(2) Repealed by Section 15 (c), Act No. 3048.

208. (1) Every person who on a Sunday delivers meat on sale whether in a retail or wholesale way and

Delivery of meat on Sunday prohibited.

* See also Section 9 Act 3048 as to stalls or standings in market.

† *Semble*, a regulation absolutely and with respect to all persons prohibiting delivery within a certain municipal district on a specified afternoon is not *ultra vires*, and the penalty may be enforced against a servant acting under his master's orders even when the master carries on business outside the district.—*Powell v. Smith*, 22 V.L.R., 556.

whether the same has been paid for or has to be paid for on or after delivery, and every person who causes any meat to be so delivered shall be guilty of an offence and shall for every such offence be liable to a penalty of not less than One pound nor more than Five pounds.

(2) Where any seller of meat either himself or by any of his employés or by any other person delivers meat on a Sunday to any other person or at any other person's house or premises such meat shall unless the contrary is proved be deemed to have been delivered on sale within the meaning of this section.

DIVISION 3.—MILK.

Half-holiday every week for persons delivering milk.

209. (1) Every milk vendor shall permit every person employed by him in delivering milk to have and take a half-holiday from the hour of one o'clock in the afternoon on some Monday Tuesday Wednesday Thursday Friday or Saturday in each and every week.

Offence.

(2) The employer of any person engaged in delivering milk shall in respect to each such person who has not in any week had and taken a half-holiday pursuant to this section be deemed to have been guilty of an offence against the provisions of this Act.

DIVISION 4.—MISCELLANEOUS.

Power of Governor in Council to make regulations fixing yearly holidays in certain cases.

210. With regard to any process trade business or occupation for which there is no yearly holiday fixed in this Act the following provisions shall have effect:—

(1) Where a petition is presented to the Governor in Council praying that any particular day in each year shall be a holiday in any such process trade business or occupation either throughout Victoria or in any part thereof and the chief inspector certifies that the petition is signed by a majority of the employers and a majority of the employés to be affected the Governor in Council may—

Petition.

(a) grant the prayer of the petition according to the terms thereof or with such alterations or modification as he thinks fit; and make re-

gulations fixing a holiday in each year accordingly; or*

(b) refuse to grant the prayer of the petition.

(2) Every employer affected by any such regulation shall give to every employé working for him in connexion with such process trade business or occupation a whole holiday in each year on the date so fixed. Employers to give holiday to employés on yearly holiday.

211. Notwithstanding anything in this Act the Governor in Council upon receiving a petition signed and certified as required for petitions praying for the fixing by regulations of a holiday in each year for any process trade business or occupation may make regulations substituting a day to be a holiday in each year for any process trade business or occupation in lieu of the day fixed for that purpose in this Act. Provided that no regulation in regard to the closing of fruit shops in the Metropolitan District shall operate to close such shops during the months of January and February. Provision for substituting another day in lieu of day fixed for yearly holiday.

212. Every shop in the city of Bendigo or in the borough of Eaglehawk in which fresh uncooked meat is sold and every factory in which small goods are made shall be closed on the whole of the third Wednesday in Annual holiday; uncooked meat shops and small goods factory, Bendigo and Eaglehawk.

* Under the provisions of this section, regulations have been made as follows:—

Date of Gazettal.	Trade, &c., affected.	Holiday fixed for—	Area affected by Holiday.
12.2.13	Making, mending, or selling bicycles, tricycles, or motor cycles	Third Saturday in February	Metropolitan District
28.10.14	Making, mending, or selling bicycles, tricycles, or motor cycles	Second Saturday in November	Geelong District
26.2.13	Hairdressing and shaving ..	Third Wednesday in February	" "
18.2.14	Manufacturing or repairing— (a) Articles made of tin plate or other sheet metal (b) Gas meters	First Saturday in March " "	} Metropolitan District
18.2.14	The business carried on in iron-mongers' shops	" "	
25.2.14	The business of a firewood merchant	Fourth Wednesday in February	" "
23.12.14	The business carried on in a dairy produce or a cooked meat (other than tinned meat) shop	Third Monday in February	" "
18.9.18	Boot repairing	Third Saturday in February	" "

February in each year and every employé in such shop or factory shall be given a whole holiday on such day and every such shop may be kept open till nine o'clock on the Tuesday preceding the third Wednesday in February in each year.

Hairdressers' annual holiday.

213. Every hairdressing and shaving saloon in the Metropolitan District shall be closed on the third Wednesday in February in each year and every employé in such saloon shall be given a holiday on such day and every such saloon may be kept open until ten o'clock on the Tuesday preceding the third Wednesday in February in each year, and such saloon shall not be required to be closed for a half-holiday in such week.

Annual holiday for fruit and vegetable shops.

214. Every fruit and vegetable shop in the Metropolitan District shall be closed on the second Wednesday in March in each year and every employé working in or in connexion with such shop shall be entitled to and be given a holiday on such day.

Annual holiday for grocers' shops.

215. Every grocer's shop and every shop in which tea is sold in the Metropolitan District shall be closed on the second Wednesday in February in each year and every employé working in or in connexion with such shop shall be entitled to and be given a holiday on such day.

Annual holidays in certain trades.

216. The fourth Saturday in February in every year shall be a factory holiday for persons employed in the following trades:—

brushmaking;
carpentering;
coach-building;
coopering;
furniture;
saw-milling;

and every employé working in connexion with a factory in which any of such trades is carried on shall be entitled to and be given a holiday on such day.

Watchmen to have one holiday a week.

217. Notwithstanding anything contained in this Act any person employed as a watchman shall be granted one holiday in every week.

218. Every fish or poultry shop in the Metropolitan District shall be closed on the last Monday in February in each year; and every employé working in or in connexion with such shop shall be entitled to and given a holiday on such day. Annual holiday, fish and poultry shops.

PART XII.—OFFENCES PENALTIES AND LEGAL PROCEEDINGS.

219. Where any person is charged with an offence against this Act, such charge shall be heard before and all penalties imposed by this Act shall be recovered before a court of petty sessions consisting of a police magistrate sitting either with or without justices. Court of petty sessions to adjudicate.

220. (1) Every offence against the provisions of this Act shall be reported to the Minister, who may if he think fit direct proceedings to be taken against the offender. Proceedings against offenders to be directed by Minister.

(2) All proceedings directed to be taken by the Minister against any person for contravening any of the provisions of this Act may be taken by any member of the police force or by any inspector.

(3) Where the Minister has directed proceedings to be taken against any offender, if the court amend the information warrant or summons for any variance between it and the evidence on the part of the prosecution, such direction of the Minister shall be sufficient authority for the continuance of the proceedings against the offender after such amendment thereof by the court. Effect of authority to prosecute.

(4) All courts shall take judicial notice of the signature of every person who is or has been Minister Chief Inspector of Factories and Shops or Assistant Chief Inspector of Factories and Shops to every document required to be signed for the purposes of this Act or any Act hereby repealed. Certain signatures to be judicially noticed.

221. In proceedings before courts of petty sessions for any contravention of the provisions of this Act it shall not be a defence that the occupier of a factory or shop was not in Victoria at the time the alleged offence was committed; and for any such contravention service of a summons by leaving the same with some person Defence. As to service of summons in certain cases.

apparently of the age of sixteen years or upwards at the usual place of business in Victoria of the person named in such summons shall be deemed to be good and sufficient service thereof.

General provisions as to proceedings before court of petty sessions.

222. The following provisions shall have effect with reference to proceedings before courts of petty sessions for offences under this Act:—

(a) The information if for any offence in connexion with the preparation or manufacture or stamping of furniture or the unlawful paying or receiving any sum of money in connexion with the employment of an apprentice or improver shall be laid within twelve months* after the commission of the offence; and if for any other offence shall be laid within two months* after the commission thereof.

(b) It shall be sufficient to allege that a factory bake-house or shop is a factory bake-house or shop within the meaning of this Act without more.

(c) It shall be sufficient to state the name of the ostensible occupier of the factory bake-house or shop or the title of the firm or company by which the occupier of the factory bake-house or shop is usually known.†

Onus of proof

(d) The onus of proof that the person firm or company named in a summons is not the occupier of the factory bake-house or shop shall be on the defendant.

(e) The onus of proof that the provisions of this Act with regard to the registration of factories or shops and with regard to the persons in charge of steam-engines or boilers have been complied with as to any particular factory or shop or such persons shall in all cases be on the defendant.

* "Month" means calendar month.—"Acts Interpretation Act."

† This sub-section applies only where an averment of occupation is material. *Bishop v. Chung Bros.*, 4 C.L.R., 1268, 13 A.L.R. 412. But see section 227 which was enacted subsequently to that decision.

- (f) The onus of proof that articles prepared or manufactured or made are not prepared or manufactured or made for sale shall in all cases be on the defendant.
- (g) In proceedings against any person for employing any apprentices or improvers in excess of the number or proportionate number as determined by a Wages Board, the onus of proof that the provisions of this Act and of such Determination with regard to the number or proportionate number of apprentices or improvers who may be employed have been complied with shall in all cases be on the defendant. S. 2 No. 3048.
- (h) The onus of proof that the provisions of this Act with regard to—
 the taking of a half-holiday in each and every week by each and every person employed in any shop; or
 the stamping of furniture; or
 the painting or varnishing of factories or washing or lime-washing the same
 have been complied with shall in all cases be on the defendant.
- (i) The onus of proof that the person named in a summons as an employé of the defendant in a certain capacity was not employed in the capacity named in such summons shall in all cases be on the defendant.
- (j) The onus of proof that the premises or place named in any summons are not or is not within the municipal district township or locality mentioned in such summons shall in all cases be on the defendant.
- (k) It shall be deemed that a shop was not closed within the meaning of this Act if it be proved with reference to such shop that hairdressing or shaving was being carried on in such shop whether by a hairdresser or barber or any employé or any person whomsoever and whether for hire or reward or otherwise fifteen minutes after the hour fixed for closing a hairdresser's or barber's shop. When hairdresser's shop deemed not closed.

When shop deemed not closed.

(l) It shall be deemed that a shop was not closed within the meaning of this Act if it be proved with reference to such shop that—

(a) goods were sold; or

(b) goods were offered for sale; or

(c) goods were exposed for sale.*

Evidence of age

(m) A declaration by a certifying medical practitioner for the district that he has personally examined a person in that district and believes him to be under the age set forth in the declaration shall be admissible in evidence of the age of that person.

Evidence of determination.
S. 2 No. 3048.

223. The production before any court judge or justices of a copy of the *Government Gazette* containing the Determination of any Wages Board shall be conclusive evidence of the due making and existence of such determination and of the due appointment of such Board and of all preliminary steps necessary to the making of such determination.†

Effect on legal proceedings of amendment of a determination.
Ibid.

224. When any Determination of a Wages Board is amended or revoked, such amendment or revocation shall not directly or indirectly affect any legal proceedings of any kind theretofore commenced under the provisions of this Act for any breach of such Determination or any right existing at the time of such amendment or revocation under the provisions of this Act.

Power to recover rate determined by Wages Board notwithstanding any agreement to the contrary.
Ibid.

225. Where any employer employs† any person who does any work for him for which a Wages Board has

* Defendant had his shop open after the prescribed hour, and goods in the shop were shown and employes were present. No sales of goods took place, and placards were exhibited announcing that the shop was open only for show purposes. *Held*, that the goods were exposed for sale within the meaning of this sub-section, and that, the shop being open after the prohibited hour, the proprietor had committed an offence.—*Turnbull v. Cocking*, 25 V.L.R., 83; 5 A.L.R., 196; 21 A.L.T., 55.

† By section 4 (1) of the *Shops Act 1912* (England) "Every shop shall . . . be closed for the serving of customers not later than one o'clock in the afternoon on one day in every week."

Held, that it is not an offence against the above provision for a shopkeeper to affix to the door of the entrance to his shop an automatic machine by means of which an article is supplied to the public during the weekly half-holiday on the insertion of a penny in the slot, inasmuch as the words "the serving of customers" in the sub-section refer to personal service. *Willesden Urban District Council v. Morgan*.—*The Times Law Reports 1914*, 21 A.L.R. (c.n.) 1, (1915.)

† The production of the *Government Gazette* is conclusive evidence of the determination of such Board, and of its due appointment in the absence of any proceedings to quash such determination, and an objection as to the proper constitution of such Board cannot be taken on a summons for an offence under the Act.—*McGlinchy v. Narracott*, 26 V.L.R., 766.

† As to when a person is "employed" see *Ballantyne v. Hinchliffe*, 21 A.L.R., 34, noted at section 168.

determined the lowest prices or rates, then such employer shall be liable to pay and shall pay in full in money without any deduction whatever to such person the price or rate so determined, and such person if he has made demand in writing on such employer within two months after such money became due may within twelve months after such money became due take proceedings in any court of competent jurisdiction to recover from the employer the full amount of any balance of such sum so demanded due in accordance with the Determination, any smaller payment or any express or implied agreement or contract to the contrary notwithstanding.*

226. (1) Where a price or rate of payment for any person or persons or classes of persons has been determined by a Wages Board and is in force, then any person—

Penalty for
breach of
determination.
S. 2 No. 3048.

- (a) who either directly or indirectly, or under any pretence or device,† attempts to employ or employs or authorizes or permits to be employed any person apprentice or improver at a lower price or rate of wages or piece-work (as the case may be) than the price or rate so determined; or

* Under this section an employé may sue for his wages at any time within twelve months. The time within which the Factories Department can prosecute for an offence is, however, limited by section 222 to two months, and in some cases to twelve months. It is very essential, therefore, that any employé who is being underpaid should give information promptly, so as to allow sufficient time to make the necessary inquiries in connexion with the preparation of the case. A case in point was where information was given after the lapse of one month. The employer in the country was really a trustee living in a different country town. Before the inspector had ascertained the facts in the case and the real parties to proceed against, the remaining month had expired, and the employé had to be left to take his own proceedings. Moreover, if claims are allowed to become stale, experience shows they are more difficult to substantiate. Compare section 232.

† A saddler was engaged by the employer's foreman to do piece-work at a lower rate of pay than that fixed by the Saddlery Board. The employer, a member of the Saddlery Board, paid the rates as agreed.

Held, that there was evidence of every element of the offence created by the section, and that the defendant was rightly convicted.—*Billingham v. Oaten*, (1911) V.L.R. 44, 17 A.L.R. 36.

The prohibition in this sub-section is absolute, "mens rea" not being necessary to constitute an offence.

The defendant was charged with employing a person at a lower wage than that fixed by a Wages Board. *Held*, it is not a good defence that the wages were paid under an honest and reasonable belief in the truth of a state of facts which, if it had really existed, would have made the payment lawful.—*Duncan v. Ellis* 22 A.L.R. 188.

- (b) who attempts to employ or employs or authorizes or permits to be employed any apprentice or improver in excess of the number or proportionate number so determined* ; or
- (c) who is guilty of a contravention of any of the provisions of this Act with relation to any Wages Board's Determination or of a contravention of any of the provisions of Part VII. or of section two hundred and two of this Act

S. 2. No. 3048.

shall be guilty of an offence against this Act, and shall for the first offence be liable to a penalty of not more than Ten pounds, and for the second offence to a penalty of not less than Five nor more than Twenty-five pounds, and for a third or any subsequent offence to a penalty of not less than Fifty nor more than One hundred pounds.†

Permission for certain students to acquire practical knowledge in factories, &c.

Provided that the Minister may permit any student of the University of Melbourne or any student taking full day courses of technological study at any working men's college or any school of mines or any other technical college or technical school in Victoria to enter and work in any factory shop or place during the time he is a student at any such institution for the purpose only of acquiring practical knowledge and skill in the trade carried on in such factory shop or place ; notwithstanding that he is not paid the rates provided by any determination in force in the trade concerned.

(2) The registration of the factory of any person who is convicted under this Act of a third offence shall without further or other authority than this Act be forthwith cancelled by the chief inspector, provided that such person knowingly and wilfully committed each of such offences.

Power to prosecute firms, &c.

227. (1) Any person or body of persons in occupation of any factory or shop may be prosecuted for any offence in the true ostensible or reputed name of such

* A shopkeeper whose principal business is the sale of dairy produce and ham and beef, but who also habitually sells a small quantity of groceries, is not absolved from observing the Grocer's Determination because the quantity of groceries sold is very small.—*Slattery v. Bishop Bros.*, 25 A.L.R., 412.

† Neither the Railway Department nor Commonwealth mail contractors are affected by Wages Boards. But charitable institutions, municipal councils, and such bodies as the Harbor Trusts and the Melbourne and Metropolitan Board of Works are.

person or body of persons and a conviction may be had and enforced by distress in that name against the actual occupier.*

(2) No sentence of imprisonment in default of distress if fixed at the hearing shall operate unless the actual or true occupier is then present or represented by his barrister and solicitor or if not fixed at the hearing shall be subsequently awarded unless the actual or true occupier is first called upon in his true name by summons to show cause.

228. Where an offence for which the occupier of a factory or shop is liable under this Act to a penalty has in fact been committed by some agent servant workman or other person such agent servant workman or other person shall be liable to the same penalty as if he were the occupier.

Penalty on persons committing offences for which occupier is liable.

229. (1) Where the occupier of a factory or shop is charged with an offence against this Act he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge.

Exemption of occupier from penalty on conviction of actual offender.

(2) If after the commission of the offence has been proved the occupier of the factory or shop proves to the satisfaction of the court that he had used diligence to enforce the execution of the Act and that the said other person had committed the offence in question without his knowledge consent or connivance the said other person shall be summarily convicted of such offence and the occupier shall be exempt from any penalty.

(3) When it is made to appear to the satisfaction of an inspector at the time of discovering the offence that the occupier of the factory or shop had used all due diligence to enforce the execution of this Act and also by what person such offence had been committed and

* See as to cases under the Acts formerly in force.—*Bishop v. Chung Bros.*, 4 C.L.R., 1262, and *Dangerfield v. McDonald and Co.*, 1914, V.L.R., 357.

Compare Section 222 (c) and footnote thereto.

This section has no application to the case of an employer not giving his carter a half-holiday (Sections 129 and 241) because that liability does not arise from his status as an occupier but from his position as an employer.

It is the duty of the Justices to ascertain for the purposes of conviction the individuals represented by "A and Company," and if they find there is an offence to hold those individuals liable.—*Dangerfield v. McDonald and Co.*, 20 A.L.R. 217.

also that it had been committed without the knowledge consent or connivance of the occupier and in contravention of his orders then the inspector shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the occupier of the factory or shop.

• Meaning of offence.

230. Every person who is guilty of a contravention of any of the provisions of this Act or any regulation or by-law thereunder shall be deemed to be guilty of an offence against the said Act regulation or by-law.

Penal compensation to person injured by want of fence to machinery, &c.

231. (1) If any person is killed or suffers any bodily injury in consequence of the occupier of a factory—

(a) having neglected to provide guards* required by or in pursuance of this Act to be provided for—

- (i) any dangerous part of the machinery of the factory, or
- (ii) any dangerous appliance used in or in connexion with the factory, or
- (iii) any dangerous part of the factory; or

(b) having neglected to keep any such guard constantly maintained in an efficient state and properly adjusted,

the occupier of the factory shall be liable to a penalty of not more than One hundred pounds the whole or any part of which may be applied for the benefit of the injured person or his family or otherwise as the Minister determines.

(2) The occupier of a factory shall not be liable to a penalty under this section if an information against him for not providing guards for any part of the machinery or for any appliance by which or for any part of the factory in which the death occurred or bodily injury was inflicted has been heard and dismissed within one month previous to the time when the death occurred or bodily injury was inflicted.

(3) This section shall not deprive the injured person or his or her representative of the right of action to recover damages in any court of competent jurisdiction.

* For provisions as to fencing machinery, &c., see sections 59-68. The guards are to be provided for the protection of persons using a machine as well as for other persons passing by.—*Howard v. Nash*, 24 A.L.R. 38.

232. A court of petty sessions in addition to imposing a penalty for a contravention of any of the provisions of this Act or the regulations made thereunder or of a Determination of a Wages Board may order the offender to pay to any person in respect of whom he has been convicted of a contravention as aforesaid and who is or has been in his employ such sums for arrears of pay or overtime or tea money (for any period not exceeding twelve months)* as the court may consider to be due to such person and any such sum may be recovered by distress and in default of payment the offender shall be liable to imprisonment with or without hard labour for a term of not more than three months.

Power for court to order payment of arrears due to employes.

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In default distress or imprisonment.

233. (1) If a factory or bake-house† is not kept in conformity with this Act or if in any factory or bake-house there is a contravention of any of the provisions of this Act the occupier thereof shall if no other penalty is by this Act provided be liable to a penalty of not more than Ten pounds and to a further penalty of One pound for every day during which such breach continues after the delivery by an inspector at his factory or bake-house of a notice notifying him that a breach of the provisions of this Act is taking place by such factory or bake-house not being kept in conformity with this Act or by a contravention thereof otherwise occurring.

Penalty for not keeping factory or bake-house in conformity with Act.

(2) The court in addition to or instead of imposing such penalty may order certain means to be adopted by the occupier within the time named in the order for the purpose of bringing his factory or bake-house into conformity with this Act and may upon application enlarge the time so named; but if after the expiration of the time as originally named or enlarged by subsequent order the order is not complied with the occupier shall be liable to a penalty of not more than One pound for every day that such non-compliance continues.

* A comparison of this section with section 225 shows that there are two methods by which an employé may obtain through the Court wages due to him. Under this section an employer must be convicted in a prosecution against him taken by the Chief Inspector of Factories to enable the Court to order payment of all arrears. Under section 225 the employé himself must issue a civil summons for the recovery of his wages. Compare section 226 and footnote thereto.

† Although this section speaks of a "factory or bake-house," it is to be noted that under section 3 of this Act any place "in which one or more persons are or is employed and in which any bread or pastry is made or baked for sale" is a factory.

Penalty on parent for allowing child or young person to be employed contrary to the Act.

234. (1) The parent of a child or person under eighteen years of age shall, if such child or person is employed* in a factory contrary to the provisions of this Act be liable to a penalty of not more than Twenty shillings for each offence unless it appears to the court that such offence was committed without the consent connivance or wilful default of such parent.†

Penalty for employing persons contrary to the Act.

(2) Where a child or person is employed in a factory contrary to the provisions of this Act, the occupier of the factory shall be liable to a penalty of not more than Three pounds, or if the offence was committed during the night of not more than Five pounds for each child or person so employed.†

Times for meals and absence from work.

235. A person who is not allowed times for meals and absence from work as required by this Act, or during any part of the times allowed for meals and absence from work is in contravention of the provisions of this Act employed in the factory or allowed to remain in any room, shall be deemed to be employed contrary to the provisions of this Act.

Penalty for obstructing inspector.

236. (1) Where an inspector is obstructed in the execution of his duties under this Act the person obstructing him shall be liable to a penalty of not more than Five pounds.†

(2) Where an inspector is so obstructed in a factory, the occupier of that factory shall be liable to a penalty of not more than Five pounds, or where the offence is committed at night of not more than Twenty pounds.

Presumption of law and evidence in proceedings.

237. (1) If one or more persons be found in a factory under such circumstances as in the opinion of the court adjudicating raise a presumption that such person or persons have been employed in such factory contrary to the provisions of this Act it shall be a presumption of law that such person or persons have been so employed provided that if any such person or persons are shown to be in such factory while all the machinery of the factory be stopped or for the sole purpose of bringing food to the persons employed in the factory or if the time at which he or they are so found be shown to be the time allotted to meals, such presumption shall not be deemed to have arisen.

* As to when a person is "employed" see *Ballantyne v. Hinchliffe*, A.L.F., 34, noted at Section 168.

† Refer to sections 34, 36, 37, 39, 40, 41, 42, 43, 44, 46, 62, 64, and 65.

‡ As to what constitutes obstruction see sections 19, 20, 123, and 124.

Failure to produce to an Inspector a book not required to be kept under this act does not amount to obstruction.—*Bishop v. Locke and Co.*, 20 A.L.R., 243.

(2) Yards, play-grounds and places open to the public view school-rooms waiting-rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on shall not be taken to be any parts of the factory within the meaning of this section.

238. (1) Every person who forges or counterfeits any certificate of the kind prescribed or required for the purposes of this Act (for the forgery or counterfeiting of which no other punishment is provided), or who gives or signs any such certificate knowing the same to be false in any material particular, or who knowingly utters or makes use of any certificate so forged counterfeited or false as aforesaid, or who knowingly utters or makes use of as applying to any person a certificate which does not so apply, or who personates any person named in a certificate, or who wilfully connives at the forging counterfeiting giving signing uttering making use or personating as aforesaid, shall be liable to a penalty of not more than Twenty pounds or to imprisonment with or without hard labour for a term of not more than three months.*

Forgery of certificates false entries and declarations.

(2) Every person who wilfully makes a false entry in any book register notice certificate list record or document required by this Act to be kept or served or sent, or who wilfully makes or signs a false declaration or return under this Act, or who knowingly makes use of any such false entry or declaration or return, shall be liable to a penalty of not more than Twenty pounds or to imprisonment with or without hard labour for a term of not more than three months.

239. Any employer who dismisses from his employment any employé by reason merely of the fact that the employé—

Penalty for dismissal of employé in certain cases.

- (a) is a member of a Wages Board; or
- (b) has given information with regard to matters under this Act to an inspector; or
- (c) has after having given reasonable notice to his employer of his intention absented himself from work through being engaged in other duties as a member of a Wages Board.

S. 2. No. 3048.

Ibid.

shall be liable to a penalty of not more than Twenty-five pounds for each employé so dismissed.

The punishment for forging an inspector's certificate of appointment is provided in section 21.

Penalty for neglect to close shop.

240. A shopkeeper or a person acting or apparently acting in the management of a shop who fails or neglects to close his shop in accordance with this Act or any regulation or by-law made thereunder shall for the first offence be liable to a penalty of not more than Two pounds and for every subsequent offence to a penalty of not less than One pound nor more than Ten pounds.*

Penalty for offence not otherwise provided for.

241. Every person guilty of any offence against this Act or any regulation or by-law thereunder for which no other penalty is provided shall for the first offence be liable to a penalty of not more than Two pounds and for every subsequent offence to a penalty of not less than One pound nor more than Ten pounds.

PART XIII.—REGULATIONS. †

Regulations.

242. The Governor in Council may by order published in the *Government Gazette* make regulations—

for fixing a scale of fees to be taken by certifying medical practitioners for examinations and reports made, and certificates given by such certifying medical practitioners in pursuance of the provisions of this Act, and for making provision generally with regard to such examinations certificates and reports; ‡

for prescribing the form of notices to be given in pursuance of this Act; §

for prescribing the form of returns to be made by occupiers and by employers;

for prescribing the provisions of this Act and regulations thereunder to be posted in factories, and the forms of and particulars to be given in records to be made or kept by occupiers of factories; ||

for prescribing the periods at which and the materials with which the floors and windows of factories and bake-houses and the privies and urinals used in connexion therewith are to be washed and cleaned; ¶

* Compare section 104 *ante*.

† The validity of regulations made or purporting to be made under the provisions of this Act can only be tested before the Supreme Court.—Section 244.

‡ Sections 11, 46, 47, and 67 *ante* and the regulations at p. 147.

§ Sections 14, 15, 25, 37, 60, 66, 87, 125, 137, and 195 and the regulations at p. 128.

|| Sections 22, 23, 126, 137, and 197 and the regulations at p. 155.

¶ The regulations at p. 162.

- for prescribing the classes of factories in which persons under the age of sixteen are to obtain certificates of fitness for employment;*
- for requiring employers to furnish all information necessary for preparing lists and rolls of electors none of whom shall be under the age of eighteen years for Wages Boards, and for determining the mode of preparing such lists and rolls, and the mode of electing members of such Boards, and the appointment and duties of returning officers;†
- for prescribing the character of the examinations and conditions under which certificates of service and competency may be granted under Division sixteen of Part III. of this Act;‡
- for prescribing the fees to be charged for suspending pursuant to the provisions of this Act the operation of any of the provisions thereof in any factory;
- for imposing penalties not exceeding Five pounds on any person failing or neglecting to comply with any regulations made under this Act;
- for prescribing where the stamp shall be placed on any class or any kind of furniture;§
- for prescribing the means method and amount in factories and shops of fire-escape fire-prevention ventilation air-space cleanliness sanitary provisions and arrangements for securing the health safety and convenience of employes;||
- for prescribing the times and places of meetings of Wages Boards and their mode of procedure; *ibid.*
and the rates of pay to be given to the chairman and to members of Wages Boards for attendance at the meetings of such Boards; *ibid.*
and¶
- generally for the better carrying out of the provisions of this Act.

243. When any regulation or by-law made or continued in force under this Act is altered or rescinded by any subsequent regulation or by-law, such alteration or rescission shall not, unless the contrary intention appears, affect legal rights.

* Sections 46 and 47 and the regulations at p. 146.

† Section 137 and the regulations at p. 142.

‡ Section 51 and the regulations at p. 148.

§ Sections 69-76 *ante* and the regulations at p. 159.

|| The regulations at pp. 128-136.

¶ Section 155 and the regulations at p. 145.

pears, directly or indirectly affect either any legal proceedings commenced or which might be taken for any contravention of any such altered or rescinded regulation or by-law or affect any right or privilege acquired or obligation imposed or liability to any penalty forfeiture or punishment incurred or imposed thereunder before the commencement of the operation of any such alteration or rescission.

Regulations and
by-laws may be
tested in
Supreme Court.

244. (1) If any person desires to dispute the validity of any regulation or by-law made or purporting to have been made or continued in force under any of the provisions of this Act it shall be lawful for such person to apply to the Supreme Court upon affidavit for a rule calling upon the chief inspector in the case of a regulation or on the municipal council making such by-law (as the case may be) to show cause why such regulation or by-law should not be quashed either wholly or in part for the illegality thereof; and the said court may make the said rule absolute or discharge it with or without costs as to the court seems meet.

(2) Every such regulation or by-law shall unless and until so quashed have and be deemed and taken to have the like force validity and effect as if such regulation or by-law had been enacted in this Act or in any Act repealed thereby, and shall not be in any manner liable to be challenged or disputed; but any such regulation or by-law may be altered or revoked by any subsequent regulation or by-law under this Act.

Act No. 2845.

1. This Act may be cited as the "White Phosphorus Matches Prohibition Act 1916" and shall be read and construed as one with the "Factories and Shops Act 1915" which Act and this Act may be cited together as the Factories and Shops Acts.
2. Division 14 of Part III. of the "Factories and Shops Act 1915" is hereby repealed.
3. In this Act "white phosphorus" means the substance usually known as white or yellow phosphorus.
4. (1) Any person who manufactures or causes to be manufactured any matches in the manufacture of which white phosphorus is used shall be liable to a penalty of not more than Ten pounds.
- (2) The Court by which any such person is convicted may in addition to imposing any such penalty forfeit any white phosphorus or any matches made with white phosphorus which are apparently in his possession; and any white phosphorus or matches so forfeited shall be destroyed or otherwise dealt with as the Court thinks fit.
5. (1) Any factory in which white phosphorus is used in the manufacture of matches shall be deemed to be a factory not kept in conformity with the "Factories and Shops Act 1915."
- (2) The occupier of any factory in which the manufacture of matches is carried on shall allow any inspector under the "Factories and Shops Act 1915" at any time to take for analysis sufficient samples of any material in use or mixed for use; and if he refuses to do so he shall be guilty of obstructing the inspector in the execution of his duties under that Act:
- Provided that the occupier may at the time when the sample is taken and on providing the necessary appliances require the inspector to divide the sample so taken into two parts and to mark seal and deliver to him one part.
6. Any person who sells offers or exposes for sale, or has in his possession for sale, any matches made with white phosphorus may on complaint to a court of petty sessions be ordered to forfeit any such matches in his possession; and any matches so forfeited shall be destroyed or otherwise dealt with as the court thinks fit.

Short title
construction
citation.

No. 2650.

Repeal of
No. 2650 s. 48.

Interpretation.

"White
phosphorus."

See 8 Edw. 7
c. 42 s. 5 (2).

Penalty for
making matches
with white
phosphorus.

Comp. No. 2650
s. 48; (N.S.W.)
1915 No. 1 s. 3.

Effect on
factory of
contravention
of Act.

Comp. No. 2650
s. 48; (N.S.W.)
1915 No. 1 s. 5.

Power to
inspector to
take samples.

Occupier of
factory refusing
samples to be
guilty of
obstructing
inspection.

Part sample on
request to be
given to
occupier.

Prohibition of
sale.

Comp. 8 Edw. 7
c. 42 s. 2;
(N.S.W.) 1915
No. 1 s. 4.

SCHEDULES.

(Act No. 2650.)

Section 2.

FIRST SCHEDULE.

No. of Act.	Title of Act.	Extent of Repeal.
2386	<i>Factories and Shops Act 1912</i>	So much as is not already repealed
2447	<i>Factories and Shops Act 1912 (No. 2)</i>	The whole
2558	<i>Factories and Shops Act 1914</i>	The whole

Section 17.

SECOND SCHEDULE.

	£	s.	d.
Every factory in which more than sixty persons are employed, per annum	3	3	0
Every factory in which more than thirty and not more than sixty persons are employed, per annum	2	2	0
Every factory in which more than ten and not more than thirty persons are employed, per annum	1	1	0
Every factory in which more than six and not more than ten persons are employed, or in which though more than six are not employed, steam, water, gas, oil, or electric power is used, per annum	0	10	0
Every factory in which not more than six persons are employed, and for which the steam, water, gas, oil, or electric power is obtained from a factory already registered, per annum	0	2	6
Every other factory, per annum	0	2	6

FIFTH SCHEDULE.

Factories and Shops Act 1915.

LIST FOR ELECTORS' ROLL OF ALL PERSONS OF EIGHTEEN YEARS OF AGE AND UPWARDS EMPLOYED BY (*state name of employer*).

Name of Employer—

Address—

Nature of Process, Trade, Business or Occupation carried on—

Name of Person employed.		Indicate opposite each name whether Employé is—		Address—			Kind of Work done by each Employé.
Surname.	Christian or other Name in full.	Male.	Female.	Number.	Street.	Place.	

I certify that the above is a true and correct list of all the persons of eighteen years of age and upwards employed, at the date of this list, as described above.

Signature of Occupier or Manager—

Date—

Section 194.

SIXTH SCHEDULE.

CERTIFICATE OF EMPLOYMENT AS AN IMPROVER IN THE*
Name of Employé—

Class of Work Employed at.	Period.		Length of Service.			We hereby certify the particulars placed opposite our Signatures are correct.	
	From.	To.	Years.	Months.	Weeks.	Employer's Signature.	Employé's Signature.

This Certificate must be produced by the Improver when seeking new employment.

* Here state the nature of the process, trade, business, or occupation in which such person was employed.

FORM OF INDENTURE PRESCRIBED BY THE BOARD.

THIS INDENTURE made the _____ day of _____

19
Between

Employer

Apprentice

Parent or Guardian

for themselves their executors administrators or assigns

WITNESSETH

That the said employer doth hereby covenant with the said apprentice and the said parent or guardian that he the said employer will

- (a) Take and receive the said apprentice as his apprentice for the full term of _____ years from the day of _____ 19 _____
- (b) To the best of his power knowledge and ability teach and instruct or cause to be taught and instructed the said apprentice in the process trade or business of*

and in all things incident or relating thereto.

- (c) Pay to the said apprentice (during such time as he shall observe and perform the terms of this Indenture) wages at the rate following (that is to say) :—

During the currency of this Indenture.

	1st year at the rate of†	per week of	hours
2nd "	"	"	"
3rd "	"	"	"
4th "	"	"	"
5th "	"	"	"
6th "	"	"	"

- (d) Pay to the said apprentice such further rates for overtime worked as may be fixed by law.
- (e) Provide all tools and materials necessary to enable the said apprentice during the term of this Indenture to perform his work.

* Here insert fully the description of the process, trade, or business to be taught.

† The rates to be inserted should be based upon the scale fixed by the latest Determination of the Board.

- (f) On completion of the term herein named hand over to the said apprentice this copy of agreement with a certificate thereon to the effect that the said term has been served.
- (g) If at any time during the said term he shall die or cease to carry on the business aforesaid as now carried on by him either altogether or within a radius of three miles from his present place of business he or his executors administrators or assigns or one of them will within one month thereafter find and provide some other employer or employers carrying on the business aforesaid within such radius if any there be or if there be none such if the apprentice so require provide some employer carrying on business beyond that radius and will assign and transfer at his or their own expense and cost the said apprentice to such employer or employers upon and subject to the same or the like conditions and stipulations as are hereinbefore provided.
- (h) If from any cause whatever he is unable to find work for the said apprentice he will transfer such apprentice for a period not exceeding three months to some other employer or employers carrying on the same business within one mile of the original employer's place of business he being held responsible for the due performance of all obligations imposed by this Indenture.

And that the said apprentice and parent or guardian covenant with the said employer that he the said apprentice during the said term (unless the employer shall remove his business to some place beyond the radius of three miles from his present place of business in which case the apprentice may if he so elect claim to have his Indenture assigned to some other employer within the radius if any there be or if there be none such to be released from this agreement) will—

- (a) Well faithfully and honestly serve the said employer as an apprentice in his trade or business aforesaid
- (b) Willingly obey the lawful orders and commands of the said employer or of such of his representatives as he the said apprentice shall be placed under in the said business
- (c) Not do or commit nor suffer to be done or committed any waste damage or other injury to the property or goods of the said employer or any firm or company of which he may be a member or lend them to any person without the consent of the said employer
- (d) Not unlawfully absent himself from the service of the said employer during business hours
- (e) Not by word or action induce other apprentices to disobedience.

And it is hereby specially agreed by all the parties to this Indenture that in case any of the covenants hereof are broken by any party hereto the Chief Inspector of Factories or any Police Magistrate of

Victoria shall have power to cancel and make an end of this Indenture of Apprenticeship if he is satisfied that any covenant or covenants have been broken and that it is desirable to do so.

It is hereby further agreed—

- (1) That the said apprentice shall be paid for all days named as public holidays in the Determination of the Board and for all working days on which the employer chooses not to carry on his business.
- (2) That the said apprentice shall not be paid for any time he shall be absent from his said duties through his own wilful default and neglect or through illness or through absenting himself from his said employer's service without leave or licence.
- (3) That the said apprentice shall not be entitled to a higher rate of pay until he has actually worked for the first period at the next preceding rate.
- (4) That in computing the period all time worked as overtime shall be allowed as a set-off against any absence during the said period.

And for the true performance of all and every of the said covenants and agreements each of the said parties bindeth himself to the other by these presents.

Signed Sealed and Delivered by the said—

<i>Employer—</i>	(L.S.)	<i>Witness—</i>
<i>Apprentice—</i>	(L.S.)	<i>Witness—</i>
<i>Parent or Guardian—</i>	(L.S.)	<i>Witness—</i>

Approval of Municipal Council.

3. Every person who is in occupation of any place which is about to become for the first time, or after a period of disuse is about to again become, a factory shall, before the same is used or again used as such, forward to the Council of the district full particulars as to such office, building, or place in the following form, namely :—

Date, 19

To the Municipal Clerk,

Section 15(1). SIR,

I hereby give you notice that I desire to occupy the premises described hereunder as a factory and request that the same may be approved by the Local Municipal Council.

The full names of the persons or body of persons who will occupy the factory are ..			
The trade name of the firm is			
The premises are situate at			
The factory will manufacture			
The mechanical power is (Electricity, steam, &c., full description required.)			
The number of persons who will probably be working (including working employers) is ..	viz. :—	males and	females.
The premises are built of			
The roof is { lined with { ceiled with			
The means of escape in case of fire are (a) ..			
(b) Stairs built of			
Width of stairs at narrowest part is ..			
The number of staircases is			
The position of staircases is			
The number of closets for females is			
The number of closets for males is			
Lavatory is provided for			
Urinal is provided for			

THE NUMBER OF WORK-ROOMS IS AND THE DIMENSIONS ARE AS BELOW—

How Room is Distinguished.	Floor (ground, first, &c.)	The Maximum Number of Persons to work in room.	Height.		Length.		Breadth.		Number of Windows.	Number of Doors.	Number of Ventilators.	
			feet.	inches.	feet.	inches.	feet.	inches.			Inlet.	Outlet.

Applicant's Signature.

Date / /

NOTE.—Section 238 of the *Factories and Shops Act* 1915 imposes penalty upon any person making false entry of any particulars in this notice.

4. If the place proposed to be registered does not come up to the standard required by these Regulations, or by such one or more of them as may be applicable to the particular place in question, the Council shall notify to the person in occupation of such place the particular objection which, on examination, is disclosed, and such place shall not be registered until these Regulations are complied with. A copy of such notification shall be simultaneously forwarded to the Chief Inspector of Factories.

When the Council has approved of any such place as suitable for a factory the Municipal Clerk shall issue an approval in writing in the following form:—

Date 19

To the Chief Inspector of Factories, Melbourne.

The Municipal Council of _____ has approved of the undermen- **Section 16 (2).**
tioned premises as suitable for a factory:—

Name of Firm.	Business to be carried on.	Address (Street, &c.)	Number of Persons for whom Accommodation is provided.		
			Males.	Females.	Where both Sexes can be employed together.

(Signed)

Municipal Clerk.

Requirements in Factories.

5. No room in any wooden building on any floor above the first floor—that is to say, the floor next above the ground floor—shall be approved of as suitable for a factory, and no place shall be approved of as a factory unless the following requirements are complied with:—

Air Space.

(a) From the floor level to a height of thirteen (13) feet the free air space shall amount to at least four hundred (400) cubic feet per person employed. **Section 24.**

Ventilation.

(b) In the absence of an approved system of mechanical ventilation, each work-room shall be provided with means of ventilation by openings other than windows or doors for the inlet and outlet of air in the proportion of not less than 12 square inches of inlet openings and 12 square inches of outlet openings for each person employed in such work-room; such space to be calculated exclusive of all bars, ornamentation, or other obstruction thereto. Such inlet openings shall be provided at the height of about 7 feet from the floor level by tubes, shafts, or hoppers in the external walls, external doors, or external windows, and shall be provided with means by which they may be readily closed and opened and by which they may be kept open in varying degrees; and such outlet openings shall be provided either in the walls of such room by externally-shielded openings as close to the ceiling thereof as may be practicable, or else in the ceiling; and in the latter case there shall be connected with each such opening an open tube or shaft having a transverse area equal to that required, and leading through and above the roof of the building, and having its upper end terminating in a cowl or other similar contrivance.

The provisions of this Regulation shall not, unless considered necessary by the administrators, apply to a work-room in which there are a fire-place with chimney and a window made to open, and in which not more than four persons are employed. Proper means for outlet ventilation shall be provided for all stairwells.

Lighting.

(c) All means of egress, passage-ways, and stairways shall be lighted to a degree sufficient for escape purposes.

Fire Escape.

Section 25

(d) The following requirements regarding means of escape shall be complied with in all factories provided that places that have been registered and occupied as factories prior to the 1st January, 1915, may continue to be so registered and occupied while the administrators consider the means of escape in case of fire are sufficient to insure the safety of the inmates.

(1) There shall be provided for every floor of a factory above the ground floor a *primary* and an *alternative* escape in case of fire. These shall be so constructed and situated as to allow of each escape being readily and safely accessible to and usable by all of the persons who may be accommodated on the different parts of every floor, so that should exit by one escape become obstructed exit by the other shall be instantly available and safely accessible and usable.

The *primary* escape shall, wherever practicable, be an external stairway, any windows in close proximity to which shall have metal frames and sashes and be glazed with wire-rolled plate glass. Wherever it is impracticable to build an external stairway, it shall be an internal stairway completely fire-isolated, situated as far as possible from lifts or other stairways, and having direct communication with the outer air.

The *alternative* escape shall be either a stairway or some other means of escape satisfactory to the administrators and approved by them.

(2) Notwithstanding the provisions of this sub-section, it shall not be compulsory to provide the alternative escape for any building if—

- (a) in the case of a wooden building, not more than twenty persons are employed on the first floor, or
- (b) in the case of a brick building comprising not more than two floors above the ground floor, the number of persons employed on the floors above the ground floor does not exceed 150.

(3) Provided further that for any building situate within the Metropolitan District as defined in the Factories and Shops Acts other means of escape which do not comply with all the requirements of the above regulation may be accepted if the Engineer of the Municipality and the Chief Officer of the Metropolitan Fire Brigades certify in writing that, in their opinion, full compliance is impracticable, unsuitable, or unnecessary, and that the other means of escape (specified in the certificate) are at least as safe and effective.

Stairs and Landings.

Section 25.

(e) All stairs and landings shall be constructed of fire-resisting materials with—

- (1) Straight flights with half-space or quarter-space landings at intervals of not more than sixteen nor less than two rises.
- (2) A securely fixed continuous hand rail on one side at a vertical height of not less than 2 ft. 10 in. above the nosing of the tread, and not less than 3 feet above the landing where the stairway is 3 ft. 4 in. or less in width; two such continuous handrails (one on each side) where the stairway is over 3 ft. 4 in. in width. Balusters or mid-rails shall be provided to every open side of every unenclosed stairway.
- (3) A clear headway throughout of not less than 6 ft. 6 in.
- (4) Steps of uniform dimensions throughout, with strongly secured treads, not less than 10 inches exclusive of nosing, and rises of not more than 7 inches.

- (5) The underside of stairs lined except where rises are fitted.
- (6) A landing at each floor of the same width as the stairway with a fire-resisting self-closing door, not less than 6 ft. 6 in. high, of the same width as the landing, and opening outwards, so as not to obstruct the landing.
- (7) A width of stairway, not less than 2 ft. 8 in., where not more than 25 persons are employed; 3 ft. 4 in. where more than 25 persons and not more than 100 persons are employed. Where more than 100 persons are employed the width of stairs shall be increased 20 inches for every extra 100 or fraction of 100 persons.
- (8) All walls and partitions enclosing any staircase shall be of fire-resisting material. Fire isolated stairways shall be enclosed by brick or stone walls, not less than 9 inches thick, or by reinforced concrete walls, not less than 4 inches thick.

Fire Extinction.

(f) The following or other appliances if approved of as equally effective by the administrators shall be provided:—(a) Iron pipes, not less than 1½ inches in diameter, conducting water from a street water main to within the building, with taps with 2½ inches outlet, fitted with Fire Brigade standard hose cocks and hoses of the same dimensions and of such numbers and in such positions as may be approved by the administrators; (b) fire buckets in such proportion as the administrators may direct, and being not less than one bucket to every 400 square feet of floor area up to sixteen hundred (1,600) square feet of floor space, such buckets to be kept filled with clean water and ready for instant use and placed in proper stands where directed, or in lieu of fire buckets, effective chemical fire extinguishers, each of which, having a fluid capacity of 3 gallons, shall be reckoned as equivalent to four buckets. Sections 25 and 26.

If by reason of any special circumstances of the case any of these provisions is, in the opinion of the administrators, unnecessary or unsuitable for any particular building or place, the administrators may approve of such building or place without such provision or provisions being carried out.

Egress.

(g) The amount of egress space from the ground floor which shall be provided for any factory occupied by not more than 25 persons shall not be less than 2 ft. 8 in.; if occupied by more than 25 persons, but not exceeding 100 persons, it shall be not less than 3 ft. 4 in.; if occupied by a greater number of persons the egress space shall be increased at the rate of 20 inches for every additional 100 persons or proportion thereof. Section 25.

Where the amount of egress space required on the ground floor exceeds five (5) feet, at least two separate doorways, placed as far apart as practicable, shall be provided. No doorway or gateway shall be less than 2 ft. 8 in. wide and 6 ft. 6 in. high in the clear.

Internal Approaches to Doorways.

(h) No aisle may be less than 2 ft. 8 in. wide. The aggregate width of aisle or gangways to be at least as wide as the stairways or doorways to which they lead

Doors and Gateways.

(i) Doors and gates forming exits from a factory shall, if so required by the administrators, be hung to open outwards towards the nearest road, street, or right-of-way, or to open both inwards and outwards.

No door or gate shall be hung so as to open immediately on to a flight of steps or to obstruct when open any exit.

No door or gate shall during the whole time the factory is occupied by employes, excepting the caretaker or watchman, be secured with fastenings other than such as will allow such door or gate to be readily opened from the inside without a key.

No door or gate across a passage shall have any other fastening except such as will allow the door to be readily opened from each side without a key. Knobs and handles of all bolts and locks must be firmly secured.

Heating Appliances.

Section 24

(j) Means and appliances for efficiently warming the factory shall be provided when such means and appliances are considered necessary by the administrators.

Except in the case of an electric heater, every heating appliance in every work-room, whether used for the warming of such room or in connexion with the work carried on therein, shall be provided with a flue at least four (4) inches in diameter, and extending to the outer air to a point at least eight (8) feet above the appliance.

Lavatories.

(k) The factory shall be provided with properly-appointed lavatories, affording the means of free ablution for the females employed therein, in the proportion of at least one lavatory or basin for every twenty females employed. When considered necessary by the administrators, properly-appointed lavatories, sufficient in number to provide the means of free ablution for the males employed, may also be ordered in any factory in the proportion of at least one lavatory or basin for every twenty males employed.

Sanitary Accommodation.

Section 25.

(l) The factory shall be provided with proper closet accommodation in the proportion of one closet for every twenty persons or fraction of twenty persons employed therein; and where persons of different sexes are employed all such accommodation shall be separate for the sexes, and approaches thereof properly separated for the sexes shall be provided. Adequate urinal accommodation shall be provided for every factory in which four or more males are to be employed, and separate and distinct urinal accommodation for the use of the females may be ordered for every factory in which more than twenty females are to be employed: Provided that in factories in which the majority of those employed are to be of one sex, and not more than two are to be of the other sex, separate and distinct closet accommodation for the persons of different sexes shall not be required if, in the opinion of the administrators, the same is suitably provided in adjoining or adjacent premises: Provided that if the closets and urinals are connected with a sewerage system the following scale may be adopted in lieu of that given above:—

SCALE.		
Number of Males.	<i>Closets for Males.</i>	Number of Closets.
1- 20	1
21- 45	2
46- 70	3
71-100	4

And one additional closet for every additional 30 male employes.

<i>Urinals for Males.</i>		
	Number of Males.	Number of Urinals.
Where closet seat is fixed	4- 45	1
„ „ lifts	10- 45	1
	46-100	2
	101-150	3
	151-200	4

And one additional urinal for every additional 70 male employes.

Number of Females.	<i>Closets for Females.</i>					Number of Closets.
1- 20	1
21- 40	2
41- 60	3
61- 80	4
81-100	5

And for additional numbers over 100, one closet for every 25 females up to 200, and thence one for every 30 females.

Dressing-room for Females.

(m) If in any factory any manufacture is to be carried on of such a nature as to necessitate the females employed changing their dresses on entering or on leaving such factory, then such factory shall not be approved unless it be provided with a suitable and adequate dressing-room for the use of the females employed therein.

MATERIALS AND CONSTRUCTION OF CERTAIN FACTORIES.

6. The following rules respecting the materials and the construction of factory buildings are to be observed as far as possible :—

Class A.

Buildings for ham and bacon curing, fish-curing, meat-preserving, jam-making, fruit-preserving, and dairy-produce manufacturing, and similar trades.

The ceiling or roof to be not less than 12 feet in height ; walls to be painted, plastered with smooth cement, or covered with other impervious material at least 6 feet in height above floor level, so as to be easily washed and cleaned. The ground floors to be imperviously paved, and all floors laid so as to drain into paved channels ; the latter to be intercepted by deodorizing tanks when required by the administrators. All yards to be either gravelled or paved, as may be required by the administrators, and well drained.

Class B.

Buildings to be used as bakehouses or butchers' small-goods houses.

The ceiling or wall-plates to be not less than 12 feet in height. The roof of the bakehouse and of the small-goods house to be lined if no ceiling has been provided. Bakehouses to be provided with floors or to be imperviously paved. Small-goods houses to be imperviously paved and laid so as to drain into paved channels. All yards to be either gravelled or paved and well drained. No part of a manure receptacle, closet, or urinal to be within 12 feet of any building or room in which the making of bread or of small-goods is carried on. No building or room in which the making of bread or of small goods is carried on shall have any communication with any stable.

Class C.

Buildings for fellmongery, leather-dressing, tanning, parchment-making, and similar trades.

The ground floors to be imperviously paved, and laid to drain into paved channels intercepted by deodorizing tanks. All yards to be gravelled or paved and well drained.

Class D.

Buildings for soap and candle works, glue-making, bone and carcass boiling-down, bone-crushing, manufacture of artificial manures, and similar trades.

The roofs or ceilings to be not less than 15 feet in height. The floors to be imperviously paved, and properly graded to drain to impervious drains discharging to adequate intercepting deodorant catchpits. Close boilers or covered vats only are to be used, from which pipes are to be fixed to convey the vapours and fumes through an effective condensing and deodorizing apparatus.

Class E.

Buildings for antimony works, smelting works of any kind, works for treatment of pyrites, ammonia and other similar works.

Buildings for works included in this class to be provided with suitable condensing apparatus, so as to render the fumes innocuous.

All ground floors imperviously paved and laid so as to drain to channels intercepted by deodorizing tanks. All yards to be gravelled or paved and well drained.

Class F.

Marine stores.

The yards and floors of the buildings imperviously paved and laid so as to drain into paved channels.

Rooms in which Females Work.

No room to be used by females shall be approved if the roof of such room be of iron, and at a shorter distance than 20 feet above the floor, unless the said room be ceiled or the roof be lined.

CHAPTER II.

REGISTRATION OF SHOPS.

Section 125.

Form and Fee.

1. The registration of any place as a shop shall be effected by forwarding to the Chief Inspector of Factories, Spring-street, Melbourne, full particulars of such place, and of the persons employed therein, including the carters, together with the proper fee for registration, in the following form:—

REGISTRATION OF SHOP.

- Names in full of Occupier or Occupiers—
- Kind of Shop—
- Trading Name (if any)—
- Street Number and Locality (in full)—
- Description of Shop Building (viz., Material of Building, Number of Rooms, &c.)—
- Shop has been Occupied previously by—

Males.	Females.	Total.

The Number of Shop Employés, including Carters, &c., is
 [Owners, Occupiers, or partners, or their sons or daughters, are employés if they do any of the work of the shop.]

The Registration Fee of £ : s. d. is forwarded herewith.

Signature of Occupier or Partner—

Date—

The Chief Inspector of Factories,
 Spring-street,
 Melbourne.

DIRECTIONS.

"Shop" means any building or portion of a building or place or any stall, tent, vehicle, or pack in which goods are exposed or offered for sale by retail, and includes any rooms of hairdressers or barbers and boot repairers' shops, and the rooms of dyers and clothes cleaners commonly known as dyers' shops and clothes cleaners' shops. Act 2650 s. 3.

It is the duty of every occupier of a shop to register at the office of the Chief Inspector of Factories, Spring-street, Melbourne, by posting or delivering a form properly filled up, with the proper fee. No notice, written or verbal, will be given, but occupiers unregistered fourteen days after 1st March in each year are liable to prosecution. (Penalty £10.)

Whenever a shop is transferred to a new occupier or to other premises a fresh registration must be made and a fresh fee paid.

Registration Forms are obtainable from the Chief Inspector of Factories, Spring-street, Melbourne, or any Inspector of Factories in the country, or at any Police Station.

The fee should be paid in the form of cash, cheques (without exchange), money orders, or postal notes. Postage stamps will not be accepted.

The fees for registration or renewal registration are—

Every shop in which more than sixty persons are employed Three pounds and three shillings per annum.

Every shop in which more than thirty and not more than sixty persons are employed Two pounds and two shillings per annum.

Every shop in which more than ten and not more than thirty persons are employed One pound and one shilling per annum.

Every shop in which more than six and not more than ten persons are employed Ten shillings per annum.

Every other shop Two shillings and sixpence per annum.

Between the 1st September and the last day of February following half fees are payable on shops first occupied during that period.

The back hereof should be carefully filled in and declared to before this form is sent on with the registration fee.

List of all Shop Employees (including Carters, Clerks, Packers, and others working in connexion with the shop) employed during the week immediately previous to the date this form is filled up. (Employés should be grouped as far as possible according to the Determination under which they are paid.) Section 126.

Name of Employé	Description of Work. (Apprentices should be clearly indicated.)	No. of Hours Worked during the Week.	AMOUNT OF WEEK'S EARNINGS.							
			WAGES.							
			Males.				Females.			
			Under 21 yrs.		21 yrs. and over		Under 21 yrs.		21 yrs. and over	
			s.	d.	s.	d.	s.	d.	s.	d.

DECLARATION.

I, _____ of _____ the person registering, do hereby declare that the above is a full and complete list of all persons (including Carters, Clerks, Packers, and others working in connexion with the shop) employed during the week ended _____ day of _____ 19____, in the shop referred to on the other side hereof, and that it is true and correct in every particular.

Dated the _____ day of _____ 191____

Signature

Certificate of Registration.

2. The Chief Inspector of Factories shall for every shop registered by him issue a certificate.

No Request for Registration to be Made.

3. It shall be the duty of every person or body of persons in occupation of any shop to procure forms and apply for registration of the shop as aforesaid without any reminder or demand therefor having been made.

Exits and Stairways.

Sections 113
and 242.

4. Every shop erected after the 1st January, 1915, and every shop which the Chief Inspector of Factories considers should be so provided, shall be provided with exits and stairways on the following scales:—

(a) *Exits and Stairways required for Retail Shops used for the sale of Drapery, Millinery, and Fancy Goods, or any other class of goods combined with Drapery, Millinery, and Fancy Goods.*

Area of each Floor in Square Feet.	Number and Width of Stairs and Exits.				Total width of Stairs and Exits.	
Up to 600	1	2ft. 8in.	..	..	..	2ft. 8in.
More than 600 and not more than 1,000 {	2	2ft. 8in. or	..	..	..	5ft. 4in.
	1	2ft. 8in. if fire isolated	..	..	..	2ft. 8in.
More than 1,000 and not more than 2,000	2	3ft. 4in.	..	..	..	6ft. 8in.
More than 2,000 and not more than 4,000 {	1	5ft. 0in.	} One stair to be fire isolated	..	..	} 8ft. 4in.
	1	3ft. 4in.				
More than 4,000 and not more than 6,000	2	5ft. 0in.	..	..	..	10ft. 0in.
More than 6,000 and not more than 8,000 {	2	5ft. 0in.	..	..	..	} 13ft. 4in.
	1	3ft. 4in.	..	..	..
More than 8,000 and not more than 10,000	3	5ft. 0in.	..	..	..	15ft. 0in.
More than 10,000 and not more than 12,000	2	5ft. 0in.	} One 5ft. 0in. stair to be fire isolated	..	..	} 16ft. 8in.
	2	3ft. 4in.				
More than 12,000 and not more than 14,000	3	5ft. 0in.	..	..	..	} 18ft. 4in.
	1	3ft. 4in.	..	..	..
More than 14,000 and not more than 16,000	4	5ft. 0in.	..	..	..	20ft. 0in.
More than 16,000 and not more than 18,000	4	5ft. 0in.	} Two stairs to be fire isolated	..	..	} 23ft. 4in.
	1	3ft. 4in.				
More than 18,000 and not more than 20,000	5	5ft. 0in.	..	..	..	25ft. 0in.
More than 20,000 and not more than 22,500	4	5ft. 0in.	} Two 5ft. 0in. stairs to be fire isolated	..	..	} 26ft. 8in.
	2	3ft. 4in.				
More than 22,500 and not more than 25,000	6	5ft. 0in.	..	..	..	30ft. 0in.

(b) Exits and Stairways required for Retail Shops other than those used for the sale of Drapery, Millinery, or Fancy Goods.

Area of each Floor in Square Feet.	Number and Width of Stairs and Exits.						Total width of Stairs and Exits.
Up to 600	1	2ft. 8in.	..	..	..	..	2ft. 8in.
More than 600 and not more than 1,000 {	2	2ft. 8in. or ..	..	..	..	..	5ft. 4in.
	1	2ft. 8in. if fire isolated	..	..	..	..	2ft. 8in.
More than 1,000 and not more than 2,000 {	1	2ft. 8in.	..	..	..	..	} 6ft. 0in.
	1	3ft. 4in.	..	..	..	..
More than 2,000 and not more than 4,000	2	3ft. 4in.	..	..	..	..	6ft. 8in.
More than 4,000 and not more than 6,000 {	1	5ft. 0in.	..	..	..	..	} 8ft. 4in.
	1	3ft. 4in.	..	..	..	..
More than 6,000 and not more than 8,000	2	5ft. 0in.	..	..	..	..	10ft. 0in.
More than 8,000 and not more than 10,000 .. {	2	5ft. 0in.	..	..	..	..	} 13ft. 4in.
	1	3ft. 4in.	..	..	..	..
More than 10,000 and not more than 12,000	3	5ft. 0in.	..	..	..	..	15ft. 0in.
More than 12,000 and not more than 14,000 .. {	2	5ft. 0in.	One 5ft. 0in. stair to be fire isolated .. ..	..	..	..	} 16ft. 8in.
	2	3ft. 4in.		..	..	..
More than 14,000 and not more than 16,000 .. {	3	5ft. 0in.	.. ..	..	..	..	} 18ft. 4in.
	1	3ft. 4in.		..	..	..
More than 16,000 and not more than 18,000	4	5ft. 0in.	..	..	..	..	20ft. 0in.
More than 18,000 and not more than 20,000 .. {	4	5ft. 0in.	} Two stairs to be fire isolated ..	..	..	..	} 23ft. 4in.
	1	3ft. 4in.		..	..	..
More than 20,000 and not more than 22,500	5	5ft. 0in.	..	..	..	..	25ft. 0in.
More than 22,500 and not more than 25,000 .. {	2	3ft. 4in.	} Two 5ft. 0in. stairs to be fire iso- lated .. ..	..	..	..	} 26ft. 8in.
	4	5ft. 0in.		..	..	..

The width of stairs in the scales (a) and (b) from the third to the sixth floors may be reduced to the width required for the next smaller area, and from the sixth floor upwards may be again reduced to the next succeeding smaller area provided that no stairs shall be reduced to a less width than 3 ft. 4 in. except for floor areas 1,000 sq. feet or less. Stairs shall be as far apart as is practicable from each other and situate as far as practicable from lift elevators or windows and lead direct to exits. If it be considered by the Chief Inspector of Factories impracticable to provide the number of stairs required in Tables (a) or (b) a smaller number of stairs may be accepted provided they give an equivalent width of exit.

The position of every exit and stairway shall be indicated by the words "Fire escape" printed in large letters, and so placed as to be as far as possible visible from every part of the shop.

Construction of Stairs and Landings.

All stairs and landings shall be constructed of fire-resisting materials with—

- (1) Straight flights with half-space or quarter-space landings at intervals of not more than sixteen nor less than two rises.
- (2) A securely fixed continuous handrail on one side at a vertical height of not less than 2 ft. 10 in. above the nosing of the tread, and not less than 3 feet above the landing where the stairway is 3 ft. 4 in. or less in width; two such continuous handrails (one on each side) where the stairway is over 3 ft. 4 in. in width. Balusters or midrails shall be provided to every open side of every unenclosed stairway.
- (3) A clear headway throughout of not less than 6 ft. 6 in.
- (4) Steps of uniform dimensions throughout, with strongly secured treads, not less than 10 inches exclusive of nosing, and rises of not more than 7 inches.
- (5) The underside of stairs lined except where rises are fitted.
- (6) A landing at each floor of the same width as the stairway with a fire-resisting self-closing door, not less than 6 ft. 6 in. high, of the same width as the landing, and opening outwards, so as not to obstruct the landing.
- (7) All walls and partitions enclosing any staircase shall be of fire-resisting material. Fire isolated stairways shall be enclosed by brick or stone walls, not less than 9 inches thick, or by reinforced concrete walls, not less than 4 inches thick.

Doors and Gates.

5. Doors and gates forming exits from a shop shall, if so required by the Chief Inspector of Factories, be hung to open outwards towards the nearest road, street, or right-of-way, or to open both inwards and outwards.

No door or gate shall be hung so as to open immediately on to a flight of steps, or to obstruct when open any exit.

No door or gate shall during the whole time the shop is occupied by the public or by employes, excepting the caretaker or watchman, be secured with fastenings other than such as will allow such door or gate to be readily opened from the inside without a key.

No door or gate across a passage shall have any other fastening except such as will allow the door to be readily opened from each side without a key. Knobs and handles of all bolts and locks must be firmly secured.

Internal Approaches to Doorways.

6. No aisle shall be less than 2 ft. 8 in. wide. The aggregate width of aisles or gangways to be at least as wide as the doorways to which they lead.

Fire Extinction.

7. The following or other appliances if approved of as equally effective by the Chief Inspector of Factories shall be provided :—(a) Iron pipes, not less than $1\frac{1}{2}$ inches in diameter, conducting water from a street water main to within the building, with taps with $2\frac{1}{2}$ inches outlets, fitted with Fire Brigade standard hose cocks, and hoses of the same dimensions and of such numbers and in such positions as may be approved by the Chief Inspector of Factories; (b) fire buckets in such proportion as the Chief Inspector of Factories may direct, and being not less than one bucket to every 400 square feet of floor area up to sixteen hundred (1,600) square feet of floor space, such buckets to be kept filled with clean water and ready for instant use and placed in proper stands where directed, or in lieu of fire buckets, effective chemical fire extinguishers, each of which, having a fluid capacity of 3 gallons, shall be reckoned as equivalent to four buckets.

If by reason of any special circumstances of the case any of these provisions is, in the opinion of the Chief Inspector of Factories, unnecessary or unsuitable for any particular building or place, the Chief Inspector of Factories may approve of such building or place without such provision or provisions being carried out.

Ventilation.

8. Every shop erected after the 1st day of January, 1915, and every shop which the Chief Inspector of Factories considers should be so provided shall be provided with means for ventilation on the following scale :—

- (a) Ventilation shall be in all cases natural except where mechanical ventilation is the only system practicable.
- (b) If the ventilation is natural, there shall be in each room an area of windows, capable of being opened equal to at least one-twentieth of the floor area.
- (c) If the ventilation is mechanical, it shall be so constructed as to secure that the whole of the air contained in each room shall be changed at least four times in each hour.

Proper means of outlet ventilation shall be provided for all stairwells.

Sanitary Accommodation.

9. Every building used as a shop shall be provided with proper closet accommodation in the proportion of one closet at least for every twenty persons or fraction of twenty persons employed therein; and where persons of different sexes are employed all such accommodation shall be separate for the sexes and approaches thereto properly separated for the sexes shall be provided. Adequate urinal accommodation shall be provided for every shop in which four or more males are to be employed, and separate and distinct urinal accommodation for the use of the females employed may be ordered where more than twenty females are to be employed. Provided that where the majority of those employed are to be of one sex, and not more than two are to be of the other sex, separate and distinct privy accommodation for the persons of different sexes shall not be required if in the opinion of the Chief Inspector of Factories the same is suitably provided in adjoining or adjacent premises. Provided that if the privies and urinals are connected with sewerage system the following scale may be adopted in lieu of that given above :—

SCALE.
Closets for Males.

Number of Males.	Number of Closets.
1- 20	1
21- 45	2
46- 70	3
71-100	4

And one additional closet for every additional 30 male employes.

Urinals for Males.

Number of Males.				Number of Urinals.		
Where closet seat is fixed	4- 45	..	..	..	..	1
.. .. lifts	10- 45	..	..	..	..	1
	46-100	..	..	..	..	2
	101-150	..	..	..	..	3
	151-200	..	..	..	..	4

And one additional urinal for every additional 70 male employés.

Closets for Females.

Number of Females.				Number of Closets.		
1- 20	1
21- 40	2
41- 60	3
61- 80	4
81-100	5

And for additional numbers over 100, one closet for every 25 females up to 200 and thence one for every 30 females.

CHAPTER III.

WAGES BOARDS.

Section 137 (5). 1. The Chief Inspector shall prepare rolls of electors, none of whom shall be under eighteen years of age, in the following forms, and each employer and each employé shall have one vote.

Employers' Rolls.

2. The employers' rolls shall be prepared either from the records in the Factories Office, or from the lists forwarded by employers.

ELECTORS' ROLL FOR BOARD.

(1) ROLL OF EMPLOYERS.

Number on Roll.	Surname.	Christian Names in full.	Address.		
			Number.	Street.	Place.

Employés' Rolls.

3. The roll of electors for employés shall in all cases be prepared from lists specially obtained from employers.

ELECTORS' ROLL FOR BOARD.

(II) ROLL OF EMPLOYÉS.

Number on Roll.	Surname.	Christian Names in full.	Address.		
			Number.	Street.	Place.

Employers to Forward Lists.

4. Every employer (whenever by notice in writing required by the Chief Inspector so to do) shall forward a list of persons employed by him in the following form :—

LIST FOR EMPLOYÉS ELECTORS' ROLL OF ALL PERSONS OF EIGHTEEN YEARS OF AGE AND UPWARDS EMPLOYED BY

Name of Occupier or Firm—

Address—

Nature of Process, Trade, Business or Occupation carried on—

Name of Person employed.		Indicate opposite each Name whether Employé is—		Address—			Kind of Work done by each Employé.
Surname.	Christian Name in full.	A Male.	A Female.	Number.	Street.	Place.	

I certify that the above is a true and correct list of all the persons of eighteen years of age and upwards employed, at the date of forwarding this list, as described above.

Signature of Occupier or Manager—

Enrolling Employés.

5. Every employé, not under eighteen years of age, whose name has been omitted, and who will be affected by the Board to be appointed, who produces evidence to the satisfaction of the Chief Inspector that his ordinary occupation when at work is employment in the process, trade, business, or occupation in regard to which the lowest prices or rates of payment are to be determined by the Board shall be enrolled as an elector or representative of employés on such wages board.

Notice.

6. The Chief Inspector shall notify every employer and employé enrolled for the purposes of a wages board that his name has been duly enrolled.

Appeal.

7. If the Chief Inspector fail, neglect, or refuse to enter any person's name on the electors' roll, such person may appeal to the Minister, who may direct the Chief Inspector to enter such person's name as an elector on the roll, or may dismiss the appeal, and such decision shall be final.

8. No person shall be entitled to be enrolled both as an elector of representatives of employers and as an elector of representatives of employés.

Dates for Election.

9. When an election is necessary and the Rolls of Electors have been prepared the Minister may by notice in the *Government Gazette* appoint a day on or before which nominations of candidates for election may be received by the Returning Officer, and a day for the election of candidates.

10. The Under-Secretary shall be returning officer for the purposes of the election of any wages board, and he may, by writing under his hand, appoint a substitute to act for him.

11. The returning officer, the substitute returning officer, and every clerk employed to count the votes at any election shall, before entering on any of his duties, make and sign before some justice the following declaration:—

Oath.

I, _____, do solemnly declare that I will faithfully and impartially, according to the best of my skill and judgment, exercise and perform all the powers, authorities, and duties reposed in or required of me by the Regulations under the Factories and Shops Acts, as returning officer (or substitute of the returning officer, or clerk employed in counting the votes) for the election of wages boards.

And I do further solemnly promise and declare that I will not, at any such election, attempt to ascertain, save in cases in which I am expressly authorized by law so to do, how any person has voted; and that if in the discharge of my said duties at or concerning any such poll, I learn how any person votes, I will not, by word or act, directly or indirectly, divulge or discover the same, save in answer to some question which I am legally bound to answer.

Nominations.

12. Every candidate as a representative of employers on any wages board shall be nominated, in writing, by 10 electors, and every candidate as a representative of employés on any wages board shall be nominated, in writing, by 25 electors, provided that a nomination by not less than one-fifth of the whole number of employers or of employés (as the case may be) on the electors' roll prepared by the Chief Inspector of Factories shall be sufficient. Every such nomination shall contain the written consent of the candidate to his nomination and shall be delivered or posted to the returning officer so as to reach him before four o'clock on the day of nomination.

13. Should the number of persons so nominated for any wages board as representatives of employers or as representatives of employés not exceed the number to be so elected, the returning officer shall report to the Minister that such persons so nominated to the wages board have been duly elected as representatives of employers or as representatives of employés (as the case may be).

Publication of Nominations.

14. Should the number of persons nominated either as representatives of employers or as representatives of employes exceed the number to be elected on any wages board, the returning officer shall publish the names of persons so nominated in the *Government Gazette*, and a poll shall be taken on the date fixed by the Minister. The poll shall be taken by voting-papers only, and no voting-paper shall be allowed which is received by the returning officer after four o'clock in the afternoon of the day for taking the poll.

Roll.

15. No additional names shall be added to the roll of electors after the returning officer has published in the *Government Gazette* the names of persons nominated.

Voting Papers.

16. Every voting-paper shall contain the names of each of the candidates for election either as a representative of employers or employes (as the case may be). The Chief Inspector shall cause a voting-paper to be posted at least four days prior to the date of such election to every elector whose name and address are on the roll of electors.

Voting.

17. Each elector shall strike out on the voting-paper forwarded to him all the names except those of the candidates for whom such elector desires to vote, and shall forthwith return such voting-paper to the returning officer by placing it in a ballot-box at the office of the Chief Inspector of Factories, or by posting it. No voting-paper shall be allowed in which more or fewer names are left uncanceled than the number of persons to be elected.

Counting Vote.

18. The returning officer shall, as soon as practicable after the hour fixed for receiving voting-papers, count the votes received, and report to the Minister the election of those candidates, not exceeding the number to be elected, who have received the greatest number of votes.

Casting Vote.

19. In case of two or more candidates receiving an equal number of votes, the returning officer shall have a casting vote.

20. In all cases not herein provided for the rules and usages at parliamentary elections shall be followed so far as they may be applicable.

MEETINGS OF WAGES BOARDS AND PAYMENT OF MEMBERS.

Nomination of Chairman.

21. Every wages board shall meet at the Department of Labour for the purpose of nominating a chairman, and thereafter at such other times and places as may be arranged by such wages board. Sections 140 and 242.

Secretary.

22. The Chief Inspector shall direct some officer to act as secretary to each wages board.

Minutes.

23. Entries of all proceedings of any wages board shall be kept by the secretary with the names of the members who attend each meeting.

Conduct of Meetings.

24. The mode of conducting the business for which any wages board is appointed may be fixed by any such wages board, or may be left to the decision of the chairman.

Determination.

25. Every determination shall be communicated to the Minister, in writing, by the chairman of such wages board.

26. After the determination of any wages board has been communicated to the Minister such board shall adjourn *sine die*, and shall meet again only when convened by the Minister of Labour or by the chairman of such wages board.

Fees and Expenses.

27. The chairman and members of boards shall be paid as follows:—

Three hours attendance or less—Chairman, 10s.; member, 5s.

Over three hours attendance—Chairman, 20s.; member, 10s.

Any member residing ten miles or more from Melbourne shall be paid, in addition, train fare from place of residence to Melbourne, and 10s. a day travelling expenses.

Provided that members shall not be paid fees, fares, or expenses for more than—

(a) seven meetings in the first twelve months after the constitution of the Board;

(b) four meetings in any subsequent year.

When computing the time occupied in attendance, intervals for meals shall not be counted.

CHAPTER IV.

MEDICAL CERTIFICATES.

Factories in which Medical Certificates are required.

Section 242. 1. Certificate of fitness for employment must be obtained by employes under sixteen years of age working in factories—

Section 46. (a) in which or in connexion with which steam, water, gas, oil, or electric power is used, but such Certificate need not be obtained in factories in which such power is used only to drive sewing machines, or in factories in which dresses, mantles, clothing, white work, underclothing, shirts, or boots and shoes are prepared or manufactured.

(b) in which or in connexion with which work is carried on incidental to the following businesses, manufactures, or trades (that is to say):—

Aerated Water Works.

Blast Furnaces.

Bleaching and Dyeing Works.

Bookbinding Works.

Candle, Soap, and Tallow Works.

Cigars, Cigarettes, and Tobacco Works.

Copper Mills.

Die-sinking and Engraving Works.

Earthenware Works.

Foundries.

Glass and Glass Bottle Works.

Glass Bevelling and Cutting.

Glass Silvering and Staining.

Iron Mills.

Lead and Shot Works.

Letter-press Printing Works.

Manure Works, Bone Mills, Glue Works, &c.

Metal Works (that is to say):—Any works in which the manufacture of any article of metal is carried out.

Paint Works.

Plumbers' Works.

Tinware Works.

Varnish Works.

White Lead Works.

Wire Works.

(c) in such other cases as the Chief Inspector may by written notice require.

Fees to be taken by Certifying Medical Practitioners.

2. The fee for any examination for a certificate for any male person of fourteen to sixteen years of age, or female person of fifteen to sixteen years of age, shall be 2s. 6d., and where a certificate is granted such fee shall include such certificate.

The fee must be paid before examination, and will be retained, although no certificate be granted.

The fee for any investigation and report required under the Factories and Shops Acts shall be £1 ls. A special fee in the discretion of the Minister may be paid for an investigation and report in any case of exceptional importance and difficulty.

No other fee shall be demanded or taken by any certifying medical practitioner.

Examination by Certifying Medical Practitioner.

3. The examination for a certificate must be conducted by the certifying medical practitioner in person, and there must be in every case a personal inspection and medical examination. Section 11.

Books to be Supplied to Certifying Medical Practitioners.

4. The Chief Inspector shall from time to time supply each certifying medical practitioner with a printed book of butts and forms of certificates prepared in the following form:— Section 46.

Date—	~	
Place—	~	<i>Factories and Shops Acts.</i>
Name of Applicant—	~	CERTIFICATE UNDER THE FACTORIES AND SHOPS ACTS,
Residence—	~	I, being a certifying medical practitioner under the
Age—	~	Factories and Shops Acts, have been satisfied either by
In what class or	~	a certificate of birth, a statutory declaration, or other
classes of Factory	~	sufficient evidence that
to be employed—	~	of _____ is of the age of
Remarks:—	~	years, and I certify that _____ has been personally
Certifying Medical	~	examined by me, and is not incapacitated by disease
Practitioner.	~	or bodily infirmity for working daily for the time
	~	allowed by law in the following class or classes of
	~	factories,* viz. :—
	~	Certifying Medical Practitioner.
	~	Date—
	~	* NOTE.—The certifying medical practitioner may
	~	here insert the words "all classes," or he may
	~	confine the certificate to any particular class or classes
	~	of factories by naming same. Certificates are only
	~	required by persons under sixteen years of age, i.e.,
	~	by boys between fourteen and sixteen, or by girls
	~	between fifteen and sixteen.

Record of Examination.

5. Before issuing a certificate the certifying medical practitioner shall enter in the butt the particulars set out in the certificate with such remarks as are applicable. Butts of all used books shall be returned to the Chief Inspector to be filed.

Notice to be sent by the Certifying Medical Practitioner when Certificate is refused.

6. If the certifying medical practitioner cannot grant such certificate to an applicant on account of physical unfitness for employment in a factory, he shall forward to the Chief Inspector of Factories the name and address of the person to whom the certificate is refused.

CHAPTER V.

THE GRANTING OF CERTIFICATES TO ENGINE-DRIVERS AND BOILER ATTENDANTS.

Sections 50
and 242.

Examinations.

1. Examinations will be conducted by the Board of Examiners at such times and places as may from time to time be notified by the secretary in the *Government Gazette* and in a newspaper or newspapers published or circulated in the locality, and candidates will be examined according to priority of receipt of notice required by clause 2.

Preliminary Requirements.

2. Each applicant for a certificate must forward to the Secretary for Mines, Melbourne, notice in writing of his intention to present himself for examination, such notice to be given not less than seven clear days prior to the date of examination.

The notice must be accompanied by cash, post-office order, or postal note to the value of 10s.

Should the applicant pass the prescribed examination the deposit shall, in each instance, go towards payment of the fee for certificate; in the event, however, of the failure of the candidate to pass the examination, such amount shall be forfeited and be paid to the consolidated revenue.

3. A candidate must, if possible, produce testimonials or certificates, signed by his employers, and such documents must specify clearly and distinctly the class of steam engines he has driven, or assisted to drive, or class of steam boilers he has attended or assisted to attend. The diameter of the cylinders of the steam engines driven must be stated on the testimonials. In cases where a candidate is unable from any sufficient cause, to produce testimonials from his employers, the Board may accept a statutory declaration or other sufficient proof that such candidate drove or assisted to drive a steam engine or engines for a period of twelve months, or attended or assisted to attend a steam boiler or boilers, for a period of six months, as evidence of his having had the necessary experience to entitle him to be examined.

4. Every candidate for a certificate of competency or service shall:—

- (a) make a statutory declaration that the testimonials he produces are genuine and true and correct in every particular, such declaration to be presented to and retained by the Board.
- (b) produce written evidence of character.
- (c) produce evidence that he is not subject to any mental or bodily infirmity likely to interfere with the efficient discharge of his duties.
- (d) State his full name, also the place and date of his birth, which shall be inserted in any certificate issued by the Board to him.

(e) Prior to his examination for a certificate of a higher class produce any certificate issued to him under these Regulations, such latter certificate to be surrendered to the Board in the event of the higher class one being granted.

5. If a candidate fails to pass the examination prescribed, he shall not again present himself until a period of not less than three months shall have elapsed from the date of his last examination.

Fees to be charged.

6. The fees to be paid for certificates issued by the Board of Examiners shall be—

For a 1st class certificate of competency as an engine-driver	£1	5	0
For a 2nd class certificate of competency as an engine-driver	1	0	0
For a 3rd class certificate of competency as an engine-driver	1	0	0
For any certificate of service as an engine-driver	1	0	0
For a certificate of competency or of service as a boiler attendant	0	10	0
For a copy of any certificate (if lost)	0	10	0
For a certificate of registration issued under clause 21 of these Regulations	0	10	0

No certificate shall be issued until full payment of the fee required shall have been made to the Secretary for Mines.

CERTIFICATE OF COMPETENCY TO DRIVE STEAM-ENGINES.

First Class Certificate.

7. A 1st class certificate issued by the Board of Examiners shall entitle the holder to drive any steam-engine in or in connexion with a factory.

8. An applicant for a 1st class certificate must, except as hereinafter provided, produce to the Board satisfactory evidence—

- (a) (1) That he has been the holder of a 2nd class certificate, under the Factories and Shops Acts, a 3rd class certificate under the Mines Acts, or a corresponding certificate issued in any other State of the Commonwealth or New Zealand, for a period of not less than twelve months, and that he has during that period had charge of and driven for a period of not less than six months a steam-engine of a class which he, as the holder of either of such certificates, is entitled to drive; or
- (2) that he has been in charge of and has efficiently managed, and driven a steam-engine the cylinder of which is more than 12 inches in diameter, or a double-cylinder steam-engine the cylinders of which have a combined area equal to that of a single cylinder of more than 12 inches in diameter for a period of not less than 12 months; or
- (3) that he has served an apprenticeship to an engineer for five years, and during the period of his apprenticeship has been employed in the making or repairing of steam-engines, or, if he has not served such apprenticeship, that for not less than five years he has been employed as journeyman mechanic in some factory in the making or repairing of steam-engines, and in either case that he has had not less than six months' experience in assisting to drive a steam-engine the cylinder

of which is more than 12 inches in diameter, or a double-cylinder engine the cylinders of which have a combined area equal to that of a single cylinder of more than 12 inches in diameter; or

- (4) that he has had not less than six months' instruction in engine-driving at any educational institution approved by the Board
- (b) That he is at the date of examination not under the age of nineteen (19) years nor over the age of fifty (50) years. The latter age not to apply to persons who had experience in driving steam-engines previous to their attaining the age of fifty (50) years.

In addition to producing this evidence, the applicant must pass an examination as to the construction of the various steam-engines and steam-boilers in general use, and as to the details of different working parts, external and internal, and the use of such parts, and be able to explain how to correct defects and what action is necessary in the ordinary emergencies which may arise in connexion with steam-engines and steam-boilers.

9. A 1st class certificate shall be issued by the Board to a candidate who satisfies the Board by the production of his certificate that he has passed an examination equivalent to the examination of a 1st class certificate of competency under these regulations before some authority recognised by the Governor in Council for that purpose in accordance with the Factories and Shops Acts.*

Second Class Certificate.

10. A 2nd class certificate issued by the Board of Examiners shall entitle the holder to drive any steam-engine in or in connexion with a factory, the cylinder of which does not exceed 12 inches in diameter, or a double-cylinder steam-engine, the combined area of the cylinders of which does not exceed that of a cylinder 12 inches in diameter.

11. An applicant for a 2nd class certificate must produce to the Board satisfactory evidence—

- (a) (1) That he has had not less than twelve months' experience in assisting to drive a steam-engine the cylinder of which exceeds 6 inches in diameter, or a double-cylinder steam-engine, the combined area of the cylinders of which exceed a cylinder 6 inches in diameter; or
- (2) That he has been the holder of a 3rd class certificate under the Factories and Shops Acts for a period of not less than twelve months, and that he has during that period had charge of and driven a 3rd class steam-engine for a period of not less than six months; or
- (3) That he has had not less than three months' instruction in engine-driving at any educational institution approved by the Board.
- (b) That he is at the date of examination not under the age of eighteen (18) years, nor over the age of fifty (50) years. The latter age not to apply to persons who had experience in driving steam-engines previous to their attaining the age of fifty (50) years.

In addition to producing this evidence the applicant must pass an examination as to the use of the principal parts of steam-engines and steam-boilers in general use of the class he desires to obtain a certificate to drive, and be able to explain what action is necessary in the ordinary emergencies which may arise in connexion with such steam-engines and steam-boilers

* The authorities recognised by the Governor in Council are:—"Board of Trade of Great Britain, Marine Board of Victoria, The Minister of Marine and Fisheries in Canada, Marine Department of New Zealand, Marine Board of New South Wales. The Head of the Government of Malta, Marine Board of South Australia, Board of Examiners under the authority of the Governor of Tasmania, Lieutenant-Governor of Bengal, Governor of Bombay, Marine Board of Queensland, Governor of Hong Kong, Governor of the Straits Settlements."—(See *Government Gazette*, 5th March, 1897, page 934.)

12. A 2nd class certificate shall be issued by the Board to a candidate who satisfies the Board by the production of his certificate that he has passed an examination equivalent to the examination of a 2nd class certificate of competency under these regulations before some authority recognised by the Governor in Council for that purpose, in accordance with the Factories and Shops Acts.*

Third Class Certificate.

13. A 3rd class certificate issued by the Board of Examiners shall entitle the holder to take charge of any steam-engine in or in connexion with a factory, the cylinder of which does not exceed 6 inches in diameter, or a double-cylinder steam-engine, the combined area of the cylinders of which does not exceed that of a cylinder 6 inches in diameter.

14. An applicant for a 3rd class certificate must produce to the Board satisfactory evidence—

- (a) (1) That he has had not less than twelve months' experience in assisting to drive a steam-engine; or
- (2) That he has had not less than three months' instruction in engine-driving at any educational institution approved by the Board.
- (b) That he is at the date of examination not under the age of eighteen (18) years, nor over the age of fifty (50) years. The latter age not to apply to persons who had experience in driving steam-engines previous to their attaining the age of fifty (50) years.

In addition to producing this evidence the applicant must pass an examination as to the use of the principal parts of steam-engines and steam-boilers in general use of the class he desires to obtain a certificate to drive, and be able to explain what action is necessary in the ordinary emergencies which may arise in connexion with such steam-engines and steam-boilers.

Certificates of Competency to Boiler Attendants.

15. A certificate of competency as a boiler attendant shall entitle the holder to take charge of any steam-boiler in or in connexion with a factory. An applicant for a certificate of competency as boiler attendant must produce to the Board satisfactory evidence—

- (a) (1) That he has had not less than six months' experience in assisting to work a steam boiler; or
- (2) That he has had not less than three months' instruction in the duties of a steam-boiler attendant at any educational institution approved by the Board.

* The authorities recognised by the Governor in Council are :—“ Board of Trade of Great Britain, Marine Board of Victoria, The Minister of Marine and Fisheries in Canada, Marine Department of New Zealand, Marine Board of New South Wales, The Head of the Government of Malta, Marine Board of South Australia, Board of Examiners under the authority of the Governor of Tasmania, Lieutenant-Governor of Bengal, Governor of Bombay, Marine Board of Queensland, Governor of Hong Kong, Governor of the Straits Settlements.”—(See *Government Gazette*, 5th March, 1897, page 934.)

(b) That he is, at the date of examination, not under the age of eighteen (18) years.

In addition to producing this evidence the applicant must pass an examination as to the different fittings of the various boilers in general use, and the use of such fittings, and as to what action is necessary in the ordinary emergencies which may arise in connexion with steam-boilers.

Certificates of Service to Drive Steam-Engines.

16. A 1st class certificate will be granted—

To a candidate who satisfies the Board that during at least twelve months within three years prior to the 1st October, 1896, he has been in sole charge of and has efficiently managed and driven a steam-engine in Victoria the cylinder of which is more than 12 inches in diameter, or a double-cylinder steam-engine the cylinders of which have a combined area equal to a single cylinder of more than 12 inches in diameter, and such certificate shall entitle the holder to drive any steam-engine in or in connexion with a factory.

17. A 2nd class certificate will be granted—

To a candidate who satisfies the Board that during at least twelve months within three years prior to the 1st October, 1896, he has been in sole charge of and has efficiently managed and driven a steam-engine in Victoria the cylinder of which is not less than 6 inches in diameter, or a double-cylinder steam-engine the cylinders of which have a combined area equal to that of a single cylinder of not less than 6 inches in diameter, and such certificate shall entitle the holder to drive any steam-engine in or in connexion with a factory, the cylinder of which does not exceed 12 inches in diameter, or a double-cylinder steam-engine, the combined area of the cylinders of which does not exceed that of a cylinder 12 inches in diameter.

18. A 3rd class certificate will be granted—

To a candidate who satisfies the Board that during at least twelve months within three years prior to 1st October, 1896, he has been in sole charge of and has efficiently managed and driven a steam-engine in Victoria, and such certificate shall entitle the holder to take charge of any steam-engine in or in connexion with a factory, the cylinder of which does not exceed 6 inches in diameter, or a double-cylinder steam-engine, the combined area of the cylinders of which does not exceed that of a cylinder 6 inches in diameter.

Certificates of Service to Boiler Attendants.

19. (a) A certificate of service as a boiler attendant will be granted to a candidate who satisfies the Board that he has been in charge of and has efficiently managed a steam-boiler during at least twelve months within three years prior to the 1st October, 1896, and such certificate shall entitle the holder to take charge of any steam-boiler in or in connexion with a factory.

20. No certificate of service shall be issued unless specially authorized by the Governor in Council.

Certificate of Registration on Transfer from another State or New Zealand.

21. Any person holding a factory engine-driver's or boiler attendant's certificate issued in any other State of the Commonwealth or in New Zealand, and who takes up his residence in Victoria, may be granted a certificate of registration of equal grade, upon payment of the fee prescribed, and without undergoing any examination.

Disqualification of Holder of Certificate.

22. Any person holding a certificate of competency or of service as an engine-driver or boiler attendant, and who is charged with any offence or misconduct likely to be detrimental to the proper or efficient discharge of his duties, may be called upon by the Board of Examiners to show cause why he should not be disqualified, as a certificated engine-driver or boiler attendant; and if he fail to satisfy the said Board, he may, by an order of the Governor in Council, published in the *Government Gazette*, be disqualified for any period from acting as engine-driver or boiler attendant.

23. Any person shall, after such order, deliver into the charge of the said Board his certificate of competency or of service, which shall be retained by the said Board during the period of disqualification, and no such person shall during the period of such disqualification take charge of any steam-engine or steam-boiler.

24. The Board may, if it think fit, hold an inquiry into the conduct of an engine-driver or boiler attendant accused of any of the foregoing offences; and with respect to such inquiry the following provisions shall have effect:—

- (1) The inquiry shall be held at such time and place as the Board may appoint, the person charged to have the right to engage counsel to defend him at such inquiry. He shall receive fourteen days' notice of the Board's intention to hold an inquiry, and if the person charged intends to employ counsel he shall give seven days' notice of such intention to the secretary to the Board
- (2) The secretary to the Board shall, before the commencement of the inquiry, furnish to the person charged a statement of the case upon which the inquiry is instituted.
- (3) The person charged shall attend such inquiry, and may produce such evidence as may be considered necessary.
- (4) The Board shall, upon the conclusion of the inquiry, forward to the Minister of Labour a report containing a full statement of the case and its opinion thereon.

Copies of Certificates.

25. Whenever a person proves to the satisfaction of the Board of Examiner that he has, without fault on his part, lost or been deprived of any certificate previously granted to him under the provisions of the Factories and Shops Acts, such Board shall, upon payment of the prescribed fee, cause a copy of the certificate to which the applicant appears to be entitled to be made out and certified by the secretary to the Board, and delivered to the applicant, and any copy so made and certified as aforesaid shall have the effect of the original certificate.

CHAPTER VI.

CARTERS.

Hours and Half-holiday in the Metropolitan District and all Cities and Towns.

1. No person shall be employed in carrying or delivering any goods, wares, merchandise, or materials whatsoever or in assisting in such work for more than sixty hours (excluding meal-times) in any week except with the written consent of the Chief Inspector of Factories, when such hours may be not more than seventy (excluding meal-times), provided that for each person the total number of weeks in any year in which such permission may be granted shall not exceed six.

2. Every such carter or person assisting (other than those employed in delivering bread, meat, and milk) shall have and take a half-holiday in each and every week as follows:—

(1) where the material to be carried or delivered is—

perishable articles of human food,
parcels of laundry-work,
flowers (on the way to market),
newspapers,

for the repair of tramways,

for repairing purposes in case of a breakdown in connexion with water-works, sewerage works, electric light works, gas works, or any other public utility, or of any plant in a factory which would otherwise have to be closed either forthwith or during the next working day for repairs,

bones and meat refuse from butchers' shops,
dead animals,

aerated waters, or cordials or ice, from the first day of November in any year to the fifteenth day of April next following,

and in cases where the Chief Inspector of Factories has given any written consent to work before or after the legal hours, such half-holiday may be had and taken on any day other than Sunday, either from Midnight till Two p.m. of the following day, or from Two p.m. onwards.

(2) In all other cases—

From Two p.m. on Saturday.

3. Every carter's and stableman's time book or card shall be in one or other of the following forms:—

FORM NO. 1.

CARTER'S AND STABLEMAN'S TIME BOOK OR CARD.

Section 130.

Employer's Name—

Address—

Employé's Name—

Address—

Class of Work done—

Week ending

19 .

Date.	Time of Starting work.	Time of Finishing work.	Time Off during the day.	Total Hours worked.	Employé's Initials.
Sunday					
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					

Total Hours worked during the Week— Hrs. Mins.

Total amount received for Wages and Overtime during the Week £ : :

Signature of Employé—

Form No. 2.

CARTER'S AND STABLEMEN'S TIME BOOK OR CARD.

Employer's Name—

Address—

Employé's Name—

Address—

Class of work done—

Week ending—

19

DATE.	Time of Starting work. a.m.	Time of Finishing work. a.m.	Time of Starting work. p.m.	Time of Finishing work. p.m.	Total hours worked.	Employé's Initials.
Sunday					
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					

Total Hours worked during the week— Hours Mins.

Total amount received for Wages and Overtime during the week £ :

Signature of Employé—

CHAPTER VII.

FORMS TO BE KEPT IN A FACTORY OR PLACE OR FORWARDED TO THE CHIEF INSPECTOR. Section 242.

Record of Factory Employés.

1. The true record of the names, work, and wages of all persons employed in or in connexion with a factory, and the ages of all persons employed under twenty-one years of age, shall be in the following form, and such record shall be forwarded to the Chief Inspector within seven days after the 1st January in each year :—

' RECORD OF EMPLOYÉS.

For use by Factory Occupiers only.

Section 22.

Trade—

Name of Employer (in full)—

Trade Name (if any)—

Street, Number, and Locality of factory (in full)—

The total number of persons employed during the first week in December, 19 , including working employers and persons such as carters working outside but in connexion with the factory is males females.

The total number of such persons working inside the factory is males females.

The fee £ is enclosed herewith.

NOTE.—Only persons inside factory count as to the amount of the fee.

Signature—

Date—

DIRECTIONS.

A factory is any building or place where—

(a) Four or more persons are engaged in manufacturing or preparing articles for trade or sale or in a handicraft such as laundry work or work done in a dye-works; or

DECLARATION.

I, _____ of _____ do hereby declare that the above is a full and complete list of all persons (including working employers and members of their families, carters, clerks, packers, and others working in connexion with the factory) employed during the first week of December, 19____, and that it is true and correct in every particular.

Dated the _____ day of _____, 19____.

Signature—

(Another form should be obtained if more space required.)

Record of Employés in places other than Factories and Shops.

2. The true record of the names, work, and wages of the persons employed in places other than factories and shops, and the ages of all persons employed under twenty-one years of age, shall be in the following form, and such record shall be forwarded to the Chief Inspector on or before the 1st January.

RECORD OF EMPLOYÉS.

(Act 2650. Section 197.)

For Hotels, Boarding Houses with 20 or more beds, Master Carters, Employers Section 197. of Clerks, Packers, Sorters, Miners, and all other persons (except Factory or Shop occupiers) who employ any workers whose wages are fixed by any Wages Board.

This form should show correct particulars of every person employed during the first week in December (including working employers and partners and members of their families) and should reach the Chief Inspector of Factories on or before the 1st January following.

No notice nor demand, written or verbal, will be given or made for this record, but Employers making default are liable to a penalty of Twenty shillings per day.

Name of Employer (in full)—

Trade Name (if any)—

Street, Number, and Locality (in full)—

What Business carried on—

The total number of all employés during the first week in December, 19____, was—

Name of Employé.	Description of Work. (Apprentices should be clearly indicated.)	No. of hours worked during the Week.	Amount of Week's Earnings.							
			Wages.				Piece-work.			
			Males.		Females.		Males.	Females.		
			Under 21 years.	21 years and over.	Under 21 years.	21 years and over.				
s. d.	s. d.	s. d.	s. d.	s. d.	s. d.					

DECLARATION

I, _____ of _____, do hereby declare that the above is a full and complete list of all persons (including working employers and members of their families, and carters, clerks, packers, and others working in connexion with the business) employed during the first week of December, 19____, and that it is true and correct in every particular.

Dated the _____ day of _____, 19____.

Signature—

(Another form should be obtained if more space required.)

Record of Outwork.

3. The record to be kept by the occupiers of factories, and others who give out work, of the work done outside a factory, and the name and address of every person by whom the same is done, and the prices paid in each instance for the work, shall be in the following form :—

Section 23. RECORD UNDER THE FACTORIES AND SHOPS ACTS OF WORK DONE OUTSIDE A FACTORY FOR EACH WEEK DURING THE YEAR 19 IN THE TRADE OF

Name of Employer—
Address—

This record to be forwarded to the Chief Inspector of Factories on the 1st of January in each year, or whenever demanded by him.

Date.	Name.	Street.	Place.	Description of Work.	Rate.

I certify that the within record is a true and correct account of the amount and kind of work done for me by the persons named herein, and the prices paid for same during the year ending

Signature of Employer—

Date— 19

Record of Fines imposed.

Section 22.

4. The record of all fines levied upon his employés by the occupier of any factory shall be kept in the following form, and a copy of such record shall be forwarded to the Chief Inspector within seven days of the 1st January in each year.

RETURN UNDER THE FACTORIES AND SHOPS ACTS OF FINES LEVIED FOR THE YEAR 19

This return is to be forwarded to the Chief Inspector of Factories on 1st January in each year.

Name of Occupier or Firm—
Address—
Nature of Work carried on—

Name of Employé.	Date of Fine.	Amount of Fine.	Particulars.

I certify that the above is a true and correct list of the fines levied upon the employés in the factory of

Signature of Occupier or Manager—

Date— 19 .

CHAPTER VIII.
STAMPING OF FURNITURE.

Sections 69
and 242.

1. The Stamp which by the Factories and Shops Acts is directed to be stamped on furniture shall be placed where specified in the following Schedule.

Schedule.

Bedsteads .. ..	..	On the underside of foot rail
Billiard tables .. ..	..	On the top of the cushion rail.
Book-cases .. ..	..	(a) With drawers, on the inside of the drawer bottom ; (b) without drawers, on the inside of the carcass back, 24 inches from the bottom.
Book-cases, revolving .. ..	..	On the under side of the top shelf.
Box couches .. ..	..	On the bottom of the couch, " scroll end."
Cabinets .. ..	..	(a) With drawers, on the inside of the drawer bottom ; (b) without drawers, on the centre of the outside back, 24 inches from the bottom.
Chairs with wooden seats		On the under side of the seat.
Chairs with cane seats .. ..	..	On the under side of the seat rail.
Chairs, rocking .. ..	..	On the under side of the frame.
Chairs, platform rockers		On the under side of an arm rest.
Chair and couch frames		On the bottom edge of frame, well outwards, to allow for bottom canvas.
Chest of drawers .. ..	..	On the inside of the second drawer from the bottom of the carcass, on the drawer bottom.
Chiffoniers .. ..	..	On the inside of the drawer bottom.
Commodos .. ..	..	On the under side of the top lid, on the right-hand corner.
Cupboards .. ..	..	On the inside of the top rail of the door.
Dinner waggons .. ..	..	(a) With drawers, on the inside of the bottom of the right-hand drawer ; (b) without drawers, on the under side of the top shelf, on the right-hand side.
Duchesse pairs .. ..	..	On the centre of the right-hand drawer bottom, on the inside.
Footstools .. ..	..	On the bottom of frame.
Hall seats and hall chairs		On the under side of the seat.
Hall stands .. ..	..	(a) With drawer, on the inside of the drawer bottom ; (b) without drawer, on the outside back, 24 inches from the bottom.
Hall tables .. ..	..	(a) With drawer, on the inside of the bottom of the drawer ; (b) without drawer, on the centre of the back rail on the back.
Kitchen dressers .. ..	..	On the front of the carcass back, between the bottom and first shelf of the top part ; if without a back on the under side of the top shelf.
Looking-glasses .. ..	..	On the outside of the glass back.
Lounges .. ..	..	On the under side of bottom.
Meat safes .. ..	..	On the inside of the top rail of the door.
Office desks .. ..	..	(a) With drawers, on the inside of the bottom of the top drawer ; (b) without drawers, on the outside of the back rail.
Ottomans .. ..	..	On the under side of bottom.
Overmantels .. ..	..	On the centre of the outside back, 18 inches from the bottom.
Pedestals .. ..	..	On the bottom of the pedestal.
Pedestal cupboards .. ..	..	On the inside of the back, 6 inches above the shelf.

Schedule—continued.

Secretaires	On the inside of a drawer bottom.
Sideboards	On the inside of the bottom of the right-hand top drawer.
Sofas, chesterfield	On the bottom edge of the seat rail.
Sofas, colonial.. ..	On the outside of back.
Sofas, stump	On the under side of frame.
Tables	Kitchen, extension, occasional, gipsy, &c., on the under side of the table top.
Towel-rails	On the bottom edge of the stand.
Upholstered suites	All chair and couch frames finished with upholstered seats to be stamped on the under edge of the seat rail, in such position as not to be covered by webbing or any other material.
Wardrobes	On the inside of the carcass back, not less than 30 inches from the top of the carcass.
Washstands	On the centre of the back rail on the back.
Wall brackets	On the under side of shelf.
Whatnots	On the under side of the top shelf.

Sections 176
and 242.

CHAPTER IX.

MODE OF APPEALING TO THE COURT OF INDUSTRIAL APPEALS.

1. Every appeal under the provisions of the Factories and Shops Acts against the determination of a Wages Board shall be instituted by the appellant forwarding to the Minister of Labour a notice, in writing.

2. The notice shall state the character in which the appellant claims to appear, and when the appeal is by a single employer or group of employers employing not less than 25 per centum of the total number of workers shall set out particulars of the numbers of workers employed by each appellant. The notice shall be written in legible characters, and shall clearly and distinctly set forth the grounds of appeal.

3. The notice of appeal shall be signed in a legible manner by each appellant, and the full address and occupation of each appellant shall be given opposite each signature.

4. Such notice shall name some address* for service, not more than 5 miles from the General Post Office, where notices, orders, summonses, documents, and written communications may be left for the appellant or appellants, and all notices, orders, summonses, documents, and written communications served or left at such address shall constitute effective service on the appellant or appellants, if there be more than one.

5. Two copies of the notice of appeal shall be forwarded with the original.

6. The Chief Inspector of Factories, or the Registrar of the Court of Industrial Appeals may allow any employer or employé in the trade affected by a determination against which an appeal has been lodged to make a copy of the notice of appeal for the purpose of entering an appearance against such appeal.

7. Any employer or employé in the trade affected by the determination which is the subject of an appeal who desires to be heard by the Court against such appeal, shall, seven days at least before the hearing, notify the Registrar of the Court of Industrial Appeals of such desire, and shall give his full name, his occupation, and address in such notification.

8. The Chief Inspector of Factories shall attach to such notice of appeal a list containing the names and addresses of the Members of the Wages Board the Determination of which is the subject of appeal, and also, when necessary, a certificate giving the number of persons employed in the trade affected by such employer or group of employers, and also the total number of persons employed in such trade as indicated in the Chief Inspector's last Annual Report issued prior to such appeal, or in the case of appeal by the workers in any trade, a certificate giving the number of persons employed in such trade as indicated in the Chief Inspector's last Annual Report.

9. Non-compliance with these regulations shall not prevent the hearing of an appeal or of opposition thereto unless the Court so orders.

CHAPTER X.

MISCELLANEOUS.

Oath of Secrecy.

No. 2650.

Section 195.

No. 3048.

Section 19 (2).

1. The oath of secrecy to be taken by the Secretary for Labour, the Chief Inspector, and the officers of the Department of Labour shall be in the following form:—

I, the undersigned being* do sincerely promise and swear that I will maintain and aid in maintaining secrecy as to the names and addresses of persons registered as Outworkers pursuant to the provisions of the Factories and Shops Acts, and that I will not divulge to any person whomsoever the name or address of any such registered Outworker except for the purposes of enforcing the provisions of the Factories and Shops Acts.

SO HELP ME GOD.

Sworn before me, at	in the State	}
of Victoria, this	day of	
in the year of our Lord	One thousand nine	
hundred and		

Justice of the Peace

* The Secretary for Labour, the Chief Inspector of Factories, or an officer of the Department of Labour (as the case may be).

Choice of Half-Holiday by Tobacconist.

No. 3049.

2. The written notice to be served on the Chief Inspector by the occupier of a Tobacconist's shop shall be in the following form, and shall be sent to him through the post by registered letter addressed to him at his office in Melbourne. Section 5.

CHOICE OF HALF-HOLIDAY.

It is hereby notified to the Chief Inspector of Factories, that with respect to the premises occupied as a Tobacconist's shop at within the Municipal District of

that I have chosen that the same shall be closed from* p.m. on Wednesdays

We for three months from the 19 (and until further notice).

Full Name of Occupier, Firm, or Company—

Signature—

Date—

19

This notice must be forwarded to the Chief Inspector of Factories by Registered Letter.

* 1 or 8, as the case may be.

No. 2650.
Sections 30
and 242.

WASHING AND CLEANING OF THE FLOORS, WINDOWS, PRIVIES, AND URINALS OF
FACTORIES.

3. The floors and windows of every factory shall, when so required in writing by the Chief Inspector of Factories, be washed with hot water and soap.

4. The seats and floor of every privy used by the employes in any factory shall be thoroughly scrubbed with water and soap once at least every week.

5. Each urinal and the floor adjacent to such urinal shall be thoroughly flushed with water every day.

Section 113.

VENTILATION IN WAREHOUSES.

6. Every warehouse erected after the first day of January, 1915, and every warehouse which the Chief Inspector of Factories considers should be so fitted shall be ventilated in accordance with the requirements of Clause 8 of Chapter II.

Section 112.

SANITARY ACCOMMODATION IN OFFICES, WAREHOUSES, OR BUILDINGS (OTHER
THAN FACTORIES OR SHOPS).

7. Every office, warehouse, or building (other than a factory or shop) in which persons are working or employed in any business whatever shall be provided with sanitary accommodation in accordance with the requirements of Clause 9 of Chapter II.

No. 2650.
Section 201.
No. 3048.
Section 22.

FIRST-AID AMBULANCE CHESTS.

8. Every occupier of a factory or shop where steam, electrical, water, or other power driven machinery is running shall at all times keep, for the use of the employes therein, a first-aid ambulance chest in some accessible place upon the premises, such chest to be equipped and supplied with the following articles, namely:—

Antiseptic solution, one bottle.

Bandages, cotton and gauze, 1 dozen assorted sizes.

Castor oil, 2 ozs.

Iodine, tincture of, 2 ozs.

Manual, 1 first-aid.

Petrolatum, carbolyzed, 1 jar.

Picric acid solution, 1 pint made according to the following recipe or prescription:—

1½ teaspoonfuls of powdered picric acid, 3 ozs. of absolute alcohol, and 2 pints of distilled water.

Pins, safety, 1 packet.

Sal volatile, 6 ozs.

Scissors, 1 pair.

Tourniquet, 1.

Tweezers, 1 pair.

An adequate assortment of—

Cotton, absorbent.

Gauze, sterilized plain.

Lint, absorbent; and

Plaster, adhesive.

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